

18-812, 18-893

United States Court of Appeals
for the
Second Circuit

MEYER TOOL, INC.,

Petitioner-Cross-Respondent,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent-Cross-Petitioner.

*On Petition for Review and Cross-Application for Enforcement
of an Order and Decision of the National Labor Relations Board*

JOINT APPENDIX

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Meyer Tool, Inc.*

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United States Government

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

May 2, 2018

Catherine O'Hagan Wolfe
Clerk of the Court
United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square, Room 1802
New York, NY 10007

Re: *Meyer Tool, Inc. v. NLRB*
2d Cir. Nos. 18-812, 18-893
Board Case No. 09-CA-185410

Dear Ms. Wolfe:

I am transmitting the Certified List of the contents of the Agency Record in the above-captioned case.

Very truly yours,

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

MEYER TOOL, INC.)	
Petitioner/Cross-Respondent)	Nos. 18-812, 18-893
)	
v.)	Board Case No.
)	09-CA-185410
NATIONAL LABOR RELATIONS)	
BOARD)	
Respondent/Cross-Petitioner)	

CERTIFIED LIST OF THE NATIONAL LABOR RELATIONS BOARD

Pursuant to authority delegated in Section 102.115 of the National Labor Relations Board's Rules and Regulations, 29 C.F.R. § 102.115, I certify that the list below fully describes all documents, transcripts of testimony, exhibits, and other material constituting the record before the Board in Meyer Tool, Inc., Case No. 09-CA-185410.

<u>VOLUME I</u> - Transcript of Hearing	<u>Pages</u>
4/10/17-4/11/17	1-690

VOLUME II - General Counsel's Exhibits

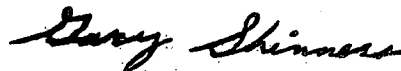
1(a-l)
2-12

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1-4
5 (withdrawn)
6-8

VOLUME III - Pleadings

<u>Date</u>	<u>Documents</u>	<u>Pages</u>
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02/13/17	Respondent's (Meyer) Motion to Reschedule Hearing	1-4
05/16/17	General Counsel's Motion to Correct Errors in the Transcript (Granted, see ALJ p.2 n.2)	1-3
05/16/17	Respondent's (Meyer) Motion to Correct Errors in the Transcript (Granted, see ALJ p.2 n.2)	1-2
06/12/17	Administrative Law Judge's Decision	1-23
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Gary W. Shinnors
Executive Secretary
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570
(202) 273-2960

May 2, 2018

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

MEYER TOOL, INC.)	
Petitioner/Cross-Respondent)	Nos. 18-812, 18-893
)	
v.)	Board Case No.
)	09-CA-185410
NATIONAL LABOR RELATIONS)	
BOARD)	
Respondent/Cross-Petitioner)	

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2018, I filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the CM/ECF system. I certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570

Dated at Washington, DC
this 2nd day of May 2018

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the matter of Meyer Tool, Inc. and William Cannon-El III

Board Case No. 09-CA-185410

<u>Date</u>	<u>Documents</u>
9.29.16	Charge
10.7.16	First amended charge
11.18.16	Second amended charge
1.31.17	Complaint and notice of hearing
2.14.17	Respondent's answer
2.14.17	Order rescheduling hearing
4.10.17	Hearing opened
4.11.17	Hearing closed
5.16.17	Respondent's motion to correct errors in the transcript (granted, see ALJ p.2 n.2)
5.16.17	General Counsel's motion to correct errors in the transcript (granted, see ALJ p.2 n.2)
6.12.17	Administrative Law Judge's decision
6.12.17	Order transferring proceeding to the NLRB
7.10.17	Respondent's exceptions
7.24.17	General Counsel's limited cross-exceptions
7.24.17	General Counsel's answering brief
8.4.17	Respondent's answering brief
8.4.17	Respondent's reply brief
3.9.18	Decision and order

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
SECOND AMENDED CHARGE AGAINST EMPLOYER
INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
09-CA-185410	November 18, 2016

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

3. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer MEYER TOOL INC	b. Tel. No. 513-815-7152	c. Cell No.
d. Address (street, city, state ZIP code) 3055 Colerain Ave, Cincinnati, OH 45225-1827	e. Employer Representative	f. Fax No. 513-853-4439
		g. e-Mail
		h. Dispute Location (City and State) Cincinnati, OH
i. Type of Establishment (factory, nursing home, hotel) High-Tech Manufacturing Company	j. Principal Product or Service Precision Components to the Aerospace and Gas Turbine Engine	k. Number of workers at dispute location 1100
1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)		
<p>About May 26, 2016, the above Employer summoned police because William Cannon-EI engaged in protected concerted activity.</p> <p>About May 26, 2016, the above Employer suspended William Cannon-EI III because he engaged in protected concerted activity.</p> <p>About June 8, 2016, the above Employer terminated William Cannon-EI III because he engaged in protected concerted activity.</p>		

3. Full name of party filing charge (If labor organization, give full name, including local name and number) William H. Cannon-EI III	
4a. Address (street and number, city, state, and ZIP code) 3287 Ferncroft Dr. Apt. #3, Cincinnati, OH 45211-6141	4b. Tel. No. 4c. Cell No. (513)680-5826 4d. Fax No. 4e. e-Mail trucannon85@gmail.com
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	Tel. No.
By: <u>X William Cannon-EI III</u> (signature of representative or person making charge)	Office, if any, Cell No. (513)680-5826
William H. Cannon-EI III Print Name and Title	Fax No.
Address: 3287 Ferncroft Dr. Apt. #3 Cincinnati, OH 45211-6141	e-Mail trucannon85@gmail.com
Date: X 11-18-16	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

GC EX 1(e)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

MEYER TOOL, INC.

Case 09-CA-185410

and

WILLIAM H. CANNON-EL, III, AN INDIVIDUAL

COMPLAINT
AND
NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by William H. Cannon-El, III, an Individual (Cannon-El). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Meyer Tool, Inc. (Respondent), has violated the Act as described below.

1. (a) The charge in this proceeding was filed by Cannon-El on September 29, 2016, and a copy was served on Respondent by U.S. mail on October 3, 2016.

(b) The first amended charge in this proceeding was filed by Cannon-El on October 7, 2016, and a copy was served on Respondent by U.S. mail on October 11, 2016.

(c) The second amended charge in this proceeding was filed by the Charging Party on November 18, 2016 and a copy was served on Respondent by U.S. mail on the same date.

2. (a) At all material times, Respondent has been a corporation with an office and place of business in Cincinnati, Ohio and has been engaged in the manufacture of components and parts for aerospace and industrial gas turbine engines.

(b) In conducting its operations during the 12-month period ending December 1, 2016, Respondent has performed services valued in excess of \$50,000 for customers outside the State of Ohio.

GC EX 1 (g)

(c) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

3. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Gordy McGuire	- Vice-President of Operations
Deanna Adams	- Human Resources Manager (from early September 2016 to present) and Human Resources Generalist (prior to early September 2016)
Rick Ackerson	- Dayshift Supervisor
Paul Rowland	- Manufacturing Process Director
Becky Schwartz	- Quality Assurance Manager
Nicole Fugate	- Training Instructor

4. (a) About May 25 and May 26, 2016, Respondent's employee, William Cannon-El, III, engaged in concerted activities with other employees for the purposes of mutual aid and protection, by complaining, both orally and in writing, about Respondent's creation of a new "go to guy" position, the individual selected to fill this position, and management's reaction to his and others' complaints about this issue.

(b) About May 26, 2016, Respondent indefinitely suspended William Cannon-El, III.

(c) About May 26, 2016, Respondent summoned police to remove William Cannon-El, III from its premises.

(d) About June 8, 2016, Respondent terminated William Cannon-El, III.

(e) Respondent engaged in the conduct described above in paragraphs 4(b)-(d), because William Cannon-El, III engaged in the conduct described above in paragraph 4(a), and to discourage employees from engaging in these or other concerted activities.

5. By the conduct described above in paragraphs 4(b)-(d), Respondent has been interfering with, restraining, and coercing employees in the exercise of their rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

6. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraph 4, the General Counsel seeks an Order requiring that Respondent reimburse William Cannon-El, III for all search-for-work and work-related expenses regardless of whether he received interim earnings in excess of these expenses, or at all, during any given quarter, or during the overall backpay period. Additionally, as part of the remedy for the unfair labor practices alleged above in paragraph 4, the General Counsel seeks an Order requiring Respondent to reimburse William Cannon-El, III for reasonable consequential damages incurred by him as a result of Respondent's unlawful conduct.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be received by this office on or before February 14, 2017 or postmarked on or before February 13, 2017. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on E-File Documents, enter the NLRB Case Number,

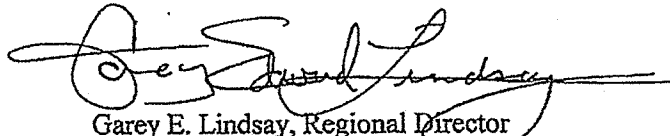
and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on March 1, 2017, 9 a.m., in Room 3003, John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this

proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: January 31, 2017

A handwritten signature in black ink, appearing to read "Garey E. Lindsay", is written over a horizontal line.

Garey E. Lindsay, Regional Director
Region 9, National Labor Relations Board
3003 John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachments

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE .

Case 09-CA-185410

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

William H. Cannon-El, III, 3287 Ferncroft Dr., Apt. 3, Cincinnati, OH 45211-6141

Julie R. Pugh, Attorney, 312 Walnut St Ste 1800, Cincinnati, OH 45202-4060

Meyer Tool Inc., 3055 Colerain Ave, Cincinnati, OH 45225-1827

Form NLRB-4668
(6-2014)

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. You may be represented at this hearing by an attorney or other representative. If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

(OVER)

JA14

Form NLRB-4668
(6-2014)

- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

MEYER TOOL, INC.

Respondent,

-and-

WILLIAM H. CANNON-EL, III,

Petitioner.

:
: Case No. 09-CA-185410
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:

RESPONDENT'S ANSWER

Pursuant to Sections 102.20 of the National Labor Relations Board's Rules and Regulations, Respondent answers the Complaint and Notice of Hearing as follows:¹

1. Respondent admits the allegations contained in Paragraphs 1(a), (b) and (c) of the Complaint.
2. Respondent admits the allegations contained in Paragraphs 2(a), (b) and (c) of the Complaint.
3. Respondent denies that Rick Ackerson's title is Dayshift Supervisor. Respondent admits the remainder of the allegations in Paragraph 3 of the Complaint.
4. Respondent denies the allegations contained in Paragraphs 4(a) and 4(e) of the Complaint. Respondent admits the allegations contained in Paragraphs 4(b), (c), and (d) of the Complaint.

¹ Respondent filed a motion to extend its time to file an answer in this matter. Counsel for the General Counsel has informed Respondent that this request was granted and that an extension to file the answer was approved through February 21, 2017. However, Respondent has never been served with an Order extending the time to respond to the Complaint and, as a result, has filed this Answer out of an abundance of caution. Respondent reserves the right to amend this Answer and/or provide more fulsome responses in accordance with the Board's rules and regulations.

GC EX 1(1)

5. Respondent denies the allegations contained in Paragraph 5 of the Complaint.
6. Respondent denies the allegations contained in Paragraph 6 of the Complaint.
7. Respondent denies that the General Counsel or William Cannon-El are entitled to any Order or remedy in their favor and otherwise denies allegations in the "Wherefore" paragraph of the Complaint.

FIRST DEFENSE

Part or all of the Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

The relief sought, in whole or in part goes beyond the authority provided under the NLRA.

THIRD DEFENSE

The Petitioner has either mitigated his alleged damages or unreasonably failed to mitigate his alleged damages.

FOURTH DEFENSE

To the extent the Complaint alleges conduct that occurred more than six months before the filing of the Charge in the above-referenced case, such allegations are barred by Section 10(b) of the Act.

FIFTH DEFENSE

The Complaint is barred because the Petitioner acted alone and for his own benefit. Moreover, Respondent would have suspended and terminated the Petitioner even if he had not engaged in the activity he claims is protected by the NLRA.

SIXTH DEFENSE

Meyer Tool's decision to terminate Petitioner's employment was unrelated to any protected concerted activity. Arguing in the alternative, Petitioner's own misconduct caused him to lose any protections afforded by the Act.

Dated: February 14, 2017

JACKSON LEWIS P.C.

By: /s/ Ryan M. Martin
Ryan M. Martin

JACKSON LEWIS P.C.
ATTORNEY FOR RESPONDENT
MEYER TOOL, INC.

CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing has been served electronically or via regular mail on this 14th day of February, 2017 as follows:

(Via Email)

Zuzana Murarova
Field Attorney
NLRB – Region 9
JWP Federal Building, Room 3003
550 Main St.
Cincinnati, Ohio 45202
Zuzana.murarova@nrlrb.gov

(Via U.S. Mail)

William H. Cannon-El, III
3287 Ferncroft Dr., Apt. #3
Cincinnati, Ohio 45211

/s/ Ryan M. Martin
Ryan M. Martin

4833-0521-2483, v. 1

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

MEYER TOOL INC.

and

Case 09-CA-185410

WILLIAM H. CANNON-EL III, AN INDIVIDUAL

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on January 31, 2017, I served the above-entitled document(s) by certified or first class mail, as noted below, upon the following persons, addressed to them at the following addresses:

Julie R. Pugh, Attorney
312 Walnut St, Ste 1800
Cincinnati, OH 45202-4060

CERTIFIED MAIL, RETURN RECEIPT
REQUESTED

Meyer Tool Inc.
3055 Colerain Ave
Cincinnati, OH 45225-1827

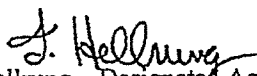
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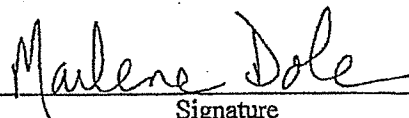
Mr. William H. Cannon-El, III
3287 Ferncroft Dr., Apt. 3
Cincinnati, OH 45211-6141

CERTIFIED MAIL, RETURN RECEIPT
REQUESTED

January 31, 2017

Date


L. Hellrung, Designated Agent of NLRB
Name


Signature

GC EX 1 (A)

JA20

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature <i>X William H. Cannon</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee B. Received by (Printed Name) <i>William Cannon</i> C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:	
1. Article Addressed to: <i>Mr. William H. Cannon - E1, III</i> <i>3287 Ferncroft Dr., Apt. 3</i> <i>Cincinnati OH 45211-6141</i> 09-CA-185410		3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7011 3500 0001 0912 9115	
PS Form 3811, July 2013		Domestic Return Receipt	

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1. Article Addressed to: <i>Julie R. Pugh, Attorney</i> <i>312 Walnut St., Ste. 1800</i> <i>Cincinnati OH 45202-4060</i> 09-CA-185410		3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7011 3500 0001 0912 9108	
PS Form 3811, July 2013		Domestic Return Receipt	

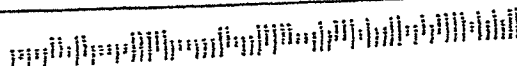
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National Labor Relations Board
3003 John Weld Peck Federal Bldg.
550 Main St
Cincinnati OH 45202-3271



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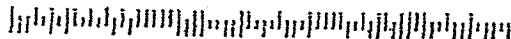
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Cincinnati OH 45202-3271

W-327199



OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

Case No.: 09-CA-185410

MEYER TOOL, INC.

Respondent

And

WILLIAM CANNON-EL, III, an Individual
Charging Party

Place: Cincinnati, OH
Date: 04/10/17
Pages: 1-387
Volume: 1

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<p style="text-align: right;">Page 1</p> <p style="text-align: center;">THE UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD REGION 9</p> <hr/> <p>IN THE MATTER OF: Case No. 09-CA-185410 MEYER TOOL, INC., Respondent, And WILLIAM CANNON-EL, III, an Individual, Charging Party.</p> <hr/> <p>The above-entitled matter came on for hearing pursuant to notice, before Andrew S. Gollin, Administrative Law Judge, at The National Labor Relations Board, Jon Weld Peck Federal Building, Room 3003, 550 Main Street, Cincinnati, Ohio, on Monday, April 10, 2017, at 9:00 a.m.</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">A P P E A R A N C E S (Continued)</p> <p>On behalf of Charging Party: Grubb & Associates, LPA, by NATALIE F. GRUBB, ESQ. 437 W. Lafayette Road, Suite 260 Medina, Ohio 44256 (330) 725-7252 Officemgr@grubbandassoc.com</p> <p>ALSO PRESENT: William Cannon-El, III Deanna M. Adams</p> <p style="text-align: center;">~~~~~</p>
<p style="text-align: right;">Page 2</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>On behalf of the Respondent, Meyer Tool, Inc.: Jackson Lewis, P.C., PC by RYAN M. MARTIN, ESQ. and DANIEL ROSENTHAL, ESQ. 425 Walnut Street, Suite 2300 Cincinnati, Ohio 45202 (513) 621-3440 Ryan.martin@jacksonlewis.com Daniel.rosenthal@jacksonlewis.com</p> <p>On behalf of the General Counsel: Office of the General Counsel, National Labor Relations Board Region 9, by ZUZANA MURAROVA, ESQ. Jon Weld Peck Federal Building, Room 3003 550 Main Street Cincinnati, Ohio 45202-3271 (513) 684-3674 zuzana.murarova@nlrb.gov</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">I N D E X</p> <p>OPENING STATEMENTS OF RESPONDENT: 16 OPENING STATEMENTS OF THE GENERAL COUNSEL: 20</p> <p>WITNESSES DIRECT CROSS REDIRECT RECROSS</p> <p>WILLIAM CANNON-EL 29 99 137 154 378</p> <p>CHRISTOPHER BAUER 159 229 258 JOHN E. POFF 266 350 372</p>

1 (Pages 1 to 4)

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JA24

Page 5				Page 7			
1	EXHIBITS			1	Party, Grubb & Associates.		
2				2	JUDGE GOLLIN: For the Respondent?		
3	EXHIBIT	IDENTIFIED	IN EVIDENCE	3	MR. MARTIN: Ryan Martin, R-y-a-n,		
4				4	M-a-r-t-i-n.		
5	GENERAL COUNSEL			5	MR. ROSENTHAL: Dan Rosenthal.		
6	1 a-l	8	9	6	JUDGE GOLLIN: If you're going to		
7	2	49	350	7	be ordering transcripts, make sure that you		
8	3	58	67	8	give your information to the hearing Reporter.		
9	4	71	314	9	All right. If settlement		
10	5	78	79	10	discussions are desired at any time during the		
11	6	179	180	11	trial, I'll be glad to grant a reasonable		
12	7	201	204	12	recess for that purpose. Trial may sometimes		
13	8	290	292	13	change attitudes and make settlement possible.		
14	9	302	331	14	Accordingly, I'm advising you now, before I've		
15	10	330	333	15	heard any of the testimony, that I intend to		
16	11	333	334	16	offer an opportunity for settlement discussions		
17				17	at two specific stages of the trial; first, at		
18	RESPONDENT			18	the conclusion of the General Counsel's case,		
19	1	121	126	19	and, second, at the conclusion of the trial.		
20	2	233	240	20	If by inadvertence I overlook the matter,		
21				21	please call it to my attention.		
22				22	Bear in mind that as the trial		
23				23	proceeds, that opportunities for discussion of		
24				24	settlement will be available at all times upon		
25				25	request.		

Page 6				Page 8			
1	(Time Noted 9:06 a.m.)			1	All right. General Counsel, would		
2	PROCEEDINGS			2	you please introduce the formal papers?		
3	JUDGE GOLLIN: The hearing will be			3	-----		
4	in order. This is a formal trial before the			4	(Thereupon, General Counsel Exhibits		
5	National Labor Relations Board in Meyer Tool,			5	1A through 1L, were marked for		
6	Inc., Case 09-CA-185410.			6	purposes of identification.)		
7	The Administrative Law Judge			7	-----		
8	presiding is Andrew S. Gollin, G-o-l-l-i-n. I			8	MS. MURAROVA: Yes, your Honor. At		
9	am assigned to the Washington, D.C., office of			9	this time I offer into evidence the formal		
10	the Division of Judges. Any communications			10	papers in this case. They have been marked for		
11	should be addressed to that office. Any			11	identification as General Counsel's Exhibit 1A		
12	requests for extensions of time should be			12	through 1L, inclusive, with Exhibit 1L being an		
13	addressed to the Deputy Chief Judge.			13	index and description of the entire Exhibit.		
14	Will Counsel and other			14	This Exhibit has already been shown		
15	representatives please state their appearances			15	to Respondent's Attorney, and I'm showing it		
16	for the record, starting with the General			16	now to Ms. Grubb. And I'm going to give a copy		
17	Counsel?			17	of the index and description to all parties		
18	MS. MURAROVA: Zuzana Murarova with			18	right now.		
19	the General Counsel.			19	JUDGE GOLLIN: Any objection to the		
20	JUDGE GOLLIN: Can you spell the			20	formal papers, General Counsel Exhibit 1?		
21	last name for me, please?			21	MR. MARTIN: No objection.		
22	MS. MURAROVA: It's "M," as in			22	JUDGE GOLLIN: Ms. Grubb, any		
23	Mary, u-r-a-r-o-v-a. And the first name is			23	objection?		
24	pronounced "Zuzana," Z-u-z-a-n-a.			24	MS. GRUBB: No.		
25	JUDGE GOLLIN: Charging party?			25	JUDGE GOLLIN: General Counsel		
	MS. GRUBB: Natalie Grubb, Charging						

2 (Pages 5 to 8)

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JA25

Page 9	Page 11
<p>1 Exhibit 1 is received. 2 ----- 3 (Thereupon, General Counsel Exhibits 4 1A through 1L were received into 5 evidence.) 6 ----- 7 MS. MURAROVA: I will hand it to 8 the Court Reporter. 9 JUDGE GOLLIN: Do you have a copy 10 of the index for me? 11 MS. MURAROVA: Yes. 12 JUDGE GOLLIN: Any preliminary 13 Motions that need to be addressed at this time? 14 MR. MARTIN: Yes, your Honor. I 15 would move for separations of Witnesses. 16 JUDGE GOLLIN: Sequestration. 17 What's your position on that, 18 General Counsel? 19 MS. MURAROVA: I concur that 20 Witnesses should be sequestered. 21 JUDGE GOLLIN: Charging Party? 22 MS. GRUBB: Agreed. 23 JUDGE GOLLIN: A Sequestration 24 Order is being issued in this proceeding. That 25 means that all persons expected to be called as</p>	<p>1 with the sequestration rule. 2 Any questions with regards to what 3 I just stated? 4 General Counsel? 5 MS. MURAROVA: No, your Honor. 6 JUDGE GOLLIN: Respondent? 7 MR. MARTIN: No, your Honor. 8 MS. GRUBB: No. 9 JUDGE GOLLIN: Charging Party, no. 10 I'll give you all a moment to 11 inform your Witnesses as to what this means, 12 and then we'll go back on the record and 13 determine if there are any other issues that 14 need to addressed. 15 MR. ROSENTHAL: Deanna Adams will 16 be a Witness, but she is staying in the room as 17 Respondent's representative. 18 JUDGE GOLLIN: When everyone 19 leaves, we're going to identify who is still in 20 the hearing room and why they're here. 21 ----- 22 (Recess taken.) 23 ----- 24 JUDGE GOLLIN: Back on the record, 25 please.</p>
Page 10	Page 12
<p>1 Witnesses in this proceeding, other than a 2 person designated as essential to the 3 presentation of the party's case, will be 4 required to remain outside the Courtroom 5 whenever testimony or other proceedings are 6 taking place. A limited exception applies to 7 Witnesses who are alleged discriminates in 8 this matter. They may be present in the 9 Courtroom at all times, other than when 10 Witnesses for the General Counsel or the 11 Charging Party are giving testimony regarding 12 the same events that the alleged discriminates 13 are expected to testify about. 14 The Sequestration Order also 15 prohibits all Witnesses from discussing with 16 any other Witnesses or possible Witnesses the 17 testimony they've already given or will give. 18 Likewise, Counsel for a party may 19 not disclose to any Witness the testimony of 20 any other Witness. Counsel may, however, 21 inform his or her own Witness of the content of 22 the testimony given by any opposing parties' 23 Witness to prepare to rebut that testimony. 24 It is Counsel's responsibility to 25 make sure that they and their Witnesses comply</p>	<p>1 The parties have been given an 2 opportunity to advise Witnesses as to the 3 sequestration ruling which has been requested. 4 Witnesses have left the room. The individuals 5 remaining in the room are who Counsel 6 previously identified, as well as the Charging 7 Party. 8 General Counsel, the other 9 individual sitting behind the Charging Party is 10 whom? 11 MS. MURAROVA: That is the charging 12 party's sister. She's not going to be 13 testifying. She's here as an individual. 14 JUDGE GOLLIN: Respondent, you have 15 an individual remaining? 16 MR. MARTIN: I have Deanna Adams, 17 who is going remain as the corporate 18 representative for Meyer Tool, and Sarah 19 Keates, who is also Counsel for Meyer Tool. 20 JUDGE GOLLIN: All right. Any 21 other preliminary matters that we need to 22 address at this time? 23 MS. MURAROVA: Yes, your Honor. We 24 would like to amend the Complaint to reflect 25 that Rick Ackerson's correct job title is --</p>

3 (Pages 9 to 12)

<p style="text-align: right;">Page 13</p> <p>1 well, actually, we've reached a joint 2 stipulation as to his job title, his correct 3 job title, and it is Supervisor, New Product 4 Introduction. 5 JUDGE GOLLIN: And the name is 6 correct? 7 MR. MARTIN: Rick Ackerson. 8 MS. MURAROVA: Yes. 9 JUDGE GOLLIN: Okay. All right. 10 And you share in that stipulation? 11 MR. MARTIN: Yes, your Honor. 12 JUDGE GOLLIN: Charging Party, do 13 you, as well? 14 MS. GRUBB: Yes, your Honor. 15 JUDGE GOLLIN: I'll receive the 16 stipulation to have the position of Rick 17 Ackerson be the Supervisor of New Product 18 Introduction. 19 Respondent, you are continuing to 20 agree, then, that Mr. Ackerson is a supervisor 21 within the meaning of Section 211 of the Act 22 and an agent within the meaning of Section 213? 23 MR. MARTIN: Yes. 24 JUDGE GOLLIN: Any other 25 preliminary matters?</p>	<p style="text-align: right;">Page 15</p> <p>1 anything preliminarily from you? 2 MR. MARTIN: I want to add, I don't 3 know if I said it the first time, that Deanna 4 Adams is going to be a Witness in this matter, 5 but she is the corporate representative. 6 JUDGE GOLLIN: That's fine. 7 I noted prior to going on the 8 record that Respondent has raised in its Answer 9 some affirmative defenses. One in particular 10 is that the allegations contained in the 11 Complaint are barred by Section 10(B) of the 12 Act. I've asked Respondent to identify which 13 provisions or allegations it's contending are 14 barred by Section 10(B) of the Act. 15 Respondent, are there any aspects 16 of the Complaint or allegations that you're 17 contending are barred by 10(B) of the Act? 18 MR. MARTIN: Not as we currently 19 understand the allegations. 20 JUDGE GOLLIN: All right. Opening 21 Statements, I'll start with General Counsel. 22 - - - - - 23 24 25</p>
<p style="text-align: right;">Page 14</p> <p>1 MS. MURAROVA: I'd like to note 2 that we have Subpoenaed some information and we 3 have received responsive information. The one 4 piece of information that we Subpoenaed and we 5 did not receive were some deposition 6 transcripts, and it's my understanding that 7 that's because Respondent was not in possession 8 of those because they did not order those. 9 MR. MARTIN: So they weren't 10 Respondent's depositions. There's a separate 11 Federal lawsuit, as your Honor might be aware, 12 involving Mr. Cannon, and there have been 13 depositions in that case. Any copies that were 14 ordered by Meyer Tool have been produced. The 15 only copies that were not produced are 16 deposition transcripts that we have not 17 ordered. 18 JUDGE GOLLIN: Okay. All right. 19 Well, I don't have a petitioner vote, so 20 there's no ruling that I need to make with 21 regard to that. 22 Anything else, General Counsel? 23 MS. MURAROVA: No. We're ready to 24 move forward with our Opening Statement. 25 JUDGE GOLLIN: Respondent, is there</p>	<p style="text-align: right;">Page 16</p> <p>1 OPENING STATEMENTS ON BEHALF 2 OF THE GENERAL COUNSEL 3 - - - - - 4 MS. MURAROVA: Your Honor, Meyer 5 Tool manufactures parts and components for the 6 aerospace and aviation industry at its facility 7 in Cincinnati, Ohio. 8 We intend to put on evidence that 9 on May 25, 2016, employees at that facility, 10 including William Cannon-El, John Poff and 11 Chris Bauer, were called into a meeting at 12 which the employer announced that it had 13 created a new position, the go-to guy, and 14 appointed employee Mark Metcalf into that 15 position. You will hear that Mr. Cannon-El, 16 Mr. Poff and Mr. Bauer all raised concerns 17 about the creation of this position and 18 Mr. Metcalf's appointment to it. 19 You will also hear testimony that 20 in the course of the meeting, Vice President 21 Gordy McGuire verbally attacked Mr. Cannon-El, 22 and then conspired with Rick Ackerman to deny 23 that it happened. 24 The evidence will show that after 25 the meeting, Mr. Cannon-El, Mr. Poff and</p>

4 (Pages 13 to 16)

<p style="text-align: right;">Page 17</p> <p>1 Mr. Bauer discussed the meeting and discussed 2 their concerns about what happened at the 3 meeting. Finding strength in numbers, 4 concerted and for mutual aid and protection, 5 they decided to all meet together in Human 6 Resources before their shift the next day to 7 file a complaint. 8 The next day they met at Human 9 Resources, as they agreed, to file their 10 complaints. And you will hear that in the 11 course of trying to file those complaints, 12 while all three men were in Ms. Adams' office 13 and while Cannon-El was raising concerns about 14 Mr. McGuire's actions the previous day, 15 repeating that he wanted to file a complaint, 16 HR Representative Deanna Adams dismissed the 17 complaints, called the Police on Mr. Cannon-El, 18 and indefinitely suspended him. This was 19 despite the fact that Mr. Cannon-El never 20 approached Ms. Adams, never screamed at her, 21 never made any threats towards her, didn't even 22 curse at her. And he did not take any action 23 that would have removed him from the 24 protections of the Act. 25 In fact, you will hear evidence</p>	<p style="text-align: right;">Page 19</p> <p>1 him. 2 JUDGE GOLLIN: Are you alleging 3 this to be a Wright Line case, an Atlantic 4 Steel case? 5 MS. MURAROVA: Your Honor, we're 6 alleging this to be an Atlantic Steel case. 7 JUDGE GOLLIN: Respondent? 8 MR. MARTIN: Yes, your Honor. 9 Thank you. 10 - - - - - 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 18</p> <p>1 that Ms. Adams actually told Mr. Cannon-El that 2 this never would have happened if he would have 3 just left his concerted complaint go. 4 You will hear that on June 8, 2016, 5 Mr. Cannon-El was terminated as a result of the 6 events on May 26. 7 Your Honor, we expect the 8 Respondent will argue that Mr. Cannon-El was 9 not raising joint concerns or that it would 10 have taken the same actions against 11 Mr. Cannon-El even outside of his protected 12 concerted activity, but you will see this is 13 not the case, as it also disciplined Mr. Poff 14 and Mr. Bauer as a result of these same events. 15 In short, this is a simple case of 16 three individuals engaging in protected 17 concerted activity by trying to file complaints 18 about the previous day's meeting, and being 19 disciplined for it. 20 The evidence will show that 21 Mr. Cannon-El engaged in protected concerted 22 activity, that he did not lose protection of 23 the Act while doing so, and that the Respondent 24 violated the Act by summoning the Police on 25 Mr. Cannon-El, suspending him, and terminating</p>	<p style="text-align: right;">Page 20</p> <p>1 OPENING STATEMENTS ON BEHALF OF THE RESPONDENT 2 - - - - - 3 MR. MARTIN: At the end of the day, 4 this is a very simple case. On May 26, 2016, 5 Mr. Cannon came into the Human 6 Resources Department at Meyer Tool to write a 7 complaint that had nothing to do with the 8 events that followed day, much less his 9 termination. 10 After writing on the complaint 11 about the announcement of a new go-to guy on 12 the night shift, the evidence will show that 13 Mr. Cannon engaged in repeated misconduct that 14 is simply not protected by the Act. 15 He went into Deanna Adams' office, 16 who undisputedly had no knowledge that 17 Mr. Cannon had written a complaint, much less 18 its contents, and told her that he only had one 19 question, who holds the Vice President 20 accountable for his actions. 21 Ms. Adams told him that an 22 Investigation Committee could be set up 23 depending on the circumstances, and asked him 24 what happened, proving she had no knowledge 25 about why Mr. Cannon entered her office.</p>

5 (Pages 17 to 20)

Page 21	Page 23
<p>1 Mr. Cannon said that Gordy McGuire 2 physically assaulted him by yelling at him and 3 getting into his personal space. Ms. Adams 4 asked if he was physically touched. Mr. Cannon 5 said no. Adams then said that legally that's 6 not probably physical assault, that's verbal 7 assault. In his words, Mr. Cannon smirked 8 because Ms. Adams did not know that he was, 9 quote, a student of the law, and importantly, 10 Mr. Cannon says he discredited anything 11 Ms. Adams said after that point. 12 Mr. Cannon then said that 13 Ms. McGuire's conduct was racially motivated. 14 Adams asked, "What conduct?" 15 Mr. Cannon said that Mr. McGuire 16 said that he was, quote, just like everyone 17 else. When Ms. Adams expressed that she was 18 perplexed that that comment was racial, 19 Mr. Cannon argued with her, cutting her off 20 repeatedly. 21 Ms. Adams said, "Whatever," to move 22 the conversation along, which Mr. Cannon 23 wrongly took as dismissive, and got agitated. 24 He continued to raise his voice, becoming more 25 and more aggressive, which the evidence will</p>	<p>1 Ms. Adams picked up the phone at 2 that point to have the Police called, and 3 managed to squeeze past Mr. Cannon to get away 4 from him, where she was later founding shaking 5 in the lobby of Meyer Tool. 6 Nothing that occurred in Ms. Adams' 7 office with Mr. Cannon was conceivably 8 protected concerted activity. Mr. Cannon 9 admits that Adams did not even know when their 10 discussion began that he had written a 11 complaint. In addition, Mr. Cannon has 12 admitted under oath that his comments to 13 Ms. Adams related only to him, and that 14 Mr. Bauer and Mr. Poff had nothing to do with 15 this conversation and stayed out of it. 16 But the story and Mr. Cannon's 17 misconduct does not stop in Ms. Adams' office. 18 Even though Ms. Adams was long gone and even 19 though he had already filed his complaint with 20 HR employee Tina Loveless, the person he went 21 to, incidentally, to report his complaint in 22 the first place, the evidence will show that 23 Mr. Cannon went on to threaten Ms. Adams by 24 telling Ms. Loveless that Ms. Adams would pay 25 for what she'd done, remained in the Human</p>
Page 22	Page 24
<p>1 show is a pattern of behavior for Mr. Cannon. 2 He also called Ms. Adams racist. 3 Ms. Adams started getting scared and asked him 4 to leave her office, a small space without any 5 windows. By all accounts, Mr. Cannon refused 6 either by staying put or going to the doorway, 7 and continued to engage Ms. Adams in an 8 aggressive way. 9 She then told Mr. Cannon to clock 10 out and go home for the day, thinking that he 11 was too upset to return to the floor in his 12 current state. Again Mr. Cannon refused and 13 said that he was not going to leave. 14 Becoming more scared by the second, 15 Ms. Adams then told Mr. Cannon-El that she 16 would call the Police if he did not leave her 17 office and leave the premises. Again he 18 refused. 19 Finally Ms. Adams gave him, 20 Mr. Cannon, to the count of three, she said, to 21 leave the vicinity of her office and the area 22 or else she would call the Police. She began 23 counting, "One," at which point it is 24 undisputed that Mr. Cannon looked her dead in 25 the eye and said, "Two, three."</p>	<p>1 Resources hallway, despite being asked to leave 2 repeatedly, having loud conversation on his 3 phone, and repeatedly said that he was not 4 going to leave until the Police came because he 5 wanted it on record that the Police had to drag 6 him out. His conduct made other employees at 7 Meyer Tool fearful and uncomfortable and 8 scared. 9 When the Police arrived, 10 Mr. Cannon, by his own admission, exercised his 11 right to remain silent and not incriminate 12 himself. 13 After the incident, an 14 Investigation Committee was established at 15 Meyer Tool to investigate both the complaints 16 related to May 25, and Ms. Adams' complaint 17 related to the events that occurred on 18 the 26th. This Investigation Committee was 19 completely separate from the events that 20 occurred. Ms. Adams had no role in the 21 decision regarding the termination of 22 Mr. Cannon's employment, and the committee was 23 composed of individuals who had no knowledge of 24 the events of that day. 25 That committee conducted a thorough</p>

6 (Pages 21 to 24)

Page 25	Page 27
<p>1 investigation by speaking to almost a dozen 2 Witnesses, and at the end of their 3 investigation recommended termination of 4 Mr. Cannon because he repeatedly refused 5 instructions to leave, and by doing so, was 6 intentionally intimidating to employees. 7 At the end of the day, Mr. Cannon 8 had multiple opportunities to diffuse the 9 situation, but repeatedly chose not to do so. 10 The evidence will show that the 11 idea that Ms. Adams was upset because Cannon 12 had a complaint is ludicrous. She didn't even 13 know he'd written a complaint. It's part of 14 her job to listen to employees who have 15 complaints, and she does it all the time. And 16 the other two men who were in her office with 17 Mr. Cannon raising completely different issues 18 were not terminated, which goes to show that it 19 was Mr. Cannon's misconduct, not the fact that 20 he complained, that led to his termination. 21 The General Counsel brings up 22 Mr. Poff and Mr. Bauer and their discipline, 23 but the evidence in that regard will show that 24 those individuals received written discipline 25 for leaving the meeting without permission the</p>	<p>1 Is there something different than 2 what General Counsel stated that you want to 3 add? 4 MS. GRUBB: Not at this time, your 5 Honor. 6 JUDGE GOLLIN: All right. And as 7 we move forward with Witnesses and Exhibits, 8 should I operate under the presumption that you 9 are deferring to General Counsel until or 10 unless you ask me or state that you have a 11 different position than her? 12 MS. GRUBB: Yes, your Honor. 13 JUDGE GOLLIN: So, similarly, if 14 you want to question a Witness after General 15 Counsel has done so or redirect or things to 16 that effect, if I neglect to give you that 17 opportunity, please make sure that you let me 18 know that you want to do so. 19 MS. GRUBB: I will. Thank you. 20 JUDGE GOLLIN: All right. Thank 21 you very much for the Opening Statements. I 22 appreciate that. It does help me on getting a 23 better handle on the case. 24 All right. General Counsel, your 25 first Witness.</p>
Page 26	Page 28
<p>1 day before and stating that they would not 2 listen to the go-to guy even if management said 3 that they would, not because they raised any 4 complaints or engaged in protected concerted 5 activity. 6 So at the end of day, the evidence 7 will show that Mr. Cannon was terminated 8 because of his own, unprotected misconduct, 9 that Wright Line doesn't even apply to his 10 situation because of that fact. But even if it 11 does, the evidence will show that Meyer Tool 12 would have still taken the same stance with 13 discipline involving Mr. Cannon even if his 14 protected concerted activity played some role 15 in the decision. 16 JUDGE GOLLIN: So it's your 17 contention that it's not an Atlantic Steel 18 case? 19 MR. MARTIN: Our contention is it's 20 not even a Wright Line test because there's no 21 actual protected concerted activity. But even 22 if you find that there is, it's a Wright Line 23 test. 24 JUDGE GOLLIN: Ms. Grubb, I 25 neglected to give you an opportunity.</p>	<p>1 MS. MURAROVA: Yes. We call 2 Mr. William Cannon-El. 3 - - - - - 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

7 (Pages 25 to 28)

Page 29	Page 31
<p>1 (Whereupon, WILLIAM CANNON-EL was called 2 as a Witness by and on behalf of the General 3 Counsel and, after having been duly sworn, was 4 examined and testified as follows:) 5 JUDGE GOLLIN: Please start by 6 stating and spelling your name for the record. 7 THE WITNESS: My name is William 8 Cannon, it is a hyphen, E-I 9 JUDGE GOLLIN: All right. Go 10 ahead, General Counsel. 11 DIRECT EXAMINATION 12 BY MS. MURAROVA: 13 Q. Mr. Cannon-El, are you familiar 14 with Meyer Tool, Inc.? 15 A. Yes. 16 Q. How are you familiar with them? 17 A. I was a former employee. 18 Q. What does Meyer Tool do? 19 A. They manufacture aerospace parts. 20 Q. What did you do for Meyer Tool? 21 A. I manufactured machine parts. 22 Q. And what department did you work 23 in? 24 A. I started out in EDM, and I was 25 later moved to NPI, which is New Product</p>	<p>1 part-time? 2 A. I was a full-time employee. 3 Q. What shift? 4 A. Night shift. 5 Q. What are the hours of night shift? 6 A. From 5:00 p.m. -- 5:30 p.m., to 7 four a.m. 8 Q. Is there a Union in place at Meyer 9 Tool? 10 A. No. 11 Q. Why do you no longer work for Meyer 12 Tool? 13 A. I was terminated. 14 Q. And immediately before you were 15 terminated, who was your direct supervisor? 16 A. Rick Ackerson. 17 Q. Directing your attention to May 25, 18 2016, do you recall attending any meetings that 19 day? 20 A. Yes. 21 Q. How did you find out about the 22 meeting? 23 A. When I arrived to work, it was 24 called by my supervisor. 25 Q. And so what time of day did the</p>
Page 30	Page 32
<p>1 Development. 2 JUDGE GOLLIN: I'm going to ask 3 Counsel and the Witnesses to make sure not to 4 use any acronyms because I'm not familiar with 5 Meyer Tool and what you do and what the 6 acronyms mean, so make sure you spell out and 7 your Witnesses spells out what the acronyms 8 are. There are exceptions. I do know what 9 "HR" would refer to or things like that. But 10 anything else, please make sure your Witnesses 11 specify what they mean. 12 You said, "EDM," which I'm not 13 familiar with that, so what is that? 14 THE WITNESS: Electrical Discharge 15 Machine. 16 JUDGE GOLLIN: All right. Then you 17 said New Product Development? 18 THE WITNESS: Yes. 19 JUDGE GOLLIN: Go ahead. I'm 20 sorry. 21 Q. When did you work for Meyer Tool? 22 A. I started September 4, 2007. 23 Q. When was your last day? 24 A. June 8, 2016. 25 Q. Did you work full-time or</p>	<p>1 meeting occur? 2 A. It started around I'd say about 3 5:40 p.m. 4 Q. Who all was at the meeting? 5 A. The night shift crew, which 6 consisted of myself, John Poff, Chris Bauer, 7 Glenn Young and Steve Korb and Mark Metcalf. 8 Q. Where it did take place? 9 A. In a break area. 10 Q. Can you describe what the break 11 area looks like? 12 A. It's just a small area with a bunch 13 of tables and chairs and vending machines. 14 Q. Are there any windows in the break 15 room? 16 A. Yes. 17 Q. Where do they look out? 18 A. They look out onto the shop floor. 19 Q. How did the meeting start? 20 A. It started just with Rick -- we all 21 gathered, and Rick announced that he was 22 appointing Mark as the go-to guy for our area. 23 Q. Go-to guy, is that a position 24 you're familiar with? 25 A. No.</p>

8 (Pages 29 to 32)

<p style="text-align: right;">Page 33</p> <p>1 Q. Have you ever heard of a go-to guy?</p> <p>2 Was there a go-to guy in place</p> <p>3 before this meeting?</p> <p>4 A. No, not one appointed.</p> <p>5 Q. Did Mr. Ackerson explain what he</p> <p>6 meant by "go-to guy"?</p> <p>7 A. No.</p> <p>8 Q. After he announced that Mark would</p> <p>9 be the go-to guy, what happened?</p> <p>10 A. John Poff expressed concerns or</p> <p>11 asked how legitimate the position is. Rick</p> <p>12 Ackerson said if he didn't like it, he could</p> <p>13 leave.</p> <p>14 Q. When he asked about how legitimate</p> <p>15 the position is, do you remember what his</p> <p>16 concerns were?</p> <p>17 A. Is it something on paper, because</p> <p>18 at that time there was already appointed a</p> <p>19 supervisor, so it was unclear as to what the</p> <p>20 go-to man -- so I guess to John -- to him, he</p> <p>21 just wanted to make sure this is something</p> <p>22 legitimate, like is it on paper.</p> <p>23 Q. Did anyone else besides Mr. Poff</p> <p>24 ask any questions?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 35</p> <p>1 A. After that, John walked out. To my</p> <p>2 knowledge, he went to HR. Chris continued to</p> <p>3 challenge the fact that he does not know his</p> <p>4 position, he doesn't want to listen to a guy</p> <p>5 who didn't know his position.</p> <p>6 And Rick was engaged in</p> <p>7 conversation with me regarding why we needed a</p> <p>8 go-to guy at this moment, which was I'm not</p> <p>9 doing my work, I'm never in my area. Day shift</p> <p>10 moved parts to Line 1. When I asked him -- we</p> <p>11 have ways to track this information. When I</p> <p>12 asked him can I see it or can he prove it, he</p> <p>13 said he doesn't have to show me anything, and</p> <p>14 went on to call Gordy McGuire on the phone.</p> <p>15 Q. Did you ask why your shift needed a</p> <p>16 baby-sitter?</p> <p>17 A. Yes.</p> <p>18 MR. ROSENTHAL: Objection, leading.</p> <p>19 JUDGE GOLLIN: It is leading. You</p> <p>20 can ask questions to get to the point, but the</p> <p>21 question has already been asked. But I will</p> <p>22 advise you in the future that you want to more</p> <p>23 deeply probe before you ask the question. I'll</p> <p>24 sustain the objection. You can ask the</p> <p>25 question that's not quite as leading, even</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. Who else asked questions?</p> <p>2 A. Chris Bauer.</p> <p>3 Q. What did Mr. Chris Bauer ask about?</p> <p>4 A. He asked about Mark Metcalf's</p> <p>5 experience and asked, "Do I honestly have to</p> <p>6 listen to someone who has less experience in</p> <p>7 the area" than he has, he helped him with his</p> <p>8 work and he didn't know the area, things like</p> <p>9 that.</p> <p>10 Q. Did you ask any questions at this</p> <p>11 meeting?</p> <p>12 A. Yes.</p> <p>13 Q. What did you ask about?</p> <p>14 A. I asked Rick regarding Mark's</p> <p>15 position, because he's been in our area for</p> <p>16 like two months, and me and him never exchanged</p> <p>17 any words or talked to each other or even had</p> <p>18 eye contact, and I was just curious as to like</p> <p>19 does he have any stipulations or biases towards</p> <p>20 a person like myself.</p> <p>21 Q. And did Mr. Ackerson answer those</p> <p>22 concerns?</p> <p>23 A. Yes. He said he's known him for</p> <p>24 years, he's not like that.</p> <p>25 Q. So what happened after that?</p>	<p style="text-align: right;">Page 36</p> <p>1 though the Witness heard the question, so we go</p> <p>2 through the exercise of doing it the right way.</p> <p>3 Q. Can you tell me about what kind of</p> <p>4 questions you were asking Mr. Ackerson?</p> <p>5 A. Yes, I recall asking him why we</p> <p>6 needed a baby-sitter. Mark said he's not a</p> <p>7 baby-sitter, you know. Rick said I'm not in my</p> <p>8 area, I'm not doing parts for Line 1. And yes,</p> <p>9 I made the comment as far as the baby-sitter.</p> <p>10 Q. So you said after you were engaged</p> <p>11 in your conversation with Mr. Ackerson -- what</p> <p>12 happened after that?</p> <p>13 A. He got irritated after John left</p> <p>14 the break area, started cursing. And at that</p> <p>15 point he was upset with us, because we was also</p> <p>16 testing the fact that he appointed Mark as the</p> <p>17 go-to guy, and he called Gordy McGuire on the</p> <p>18 phone and started making more allegations.</p> <p>19 JUDGE GOLLIN: It's going to be</p> <p>20 real important for me for you to go through</p> <p>21 specifically what you saw and what you heard,</p> <p>22 as opposed to you making conclusions.</p> <p>23 Like, for example, you said that he</p> <p>24 called Gordy McGuire.</p> <p>25 How do you know that he called</p>

9 (Pages 33 to 36)

<p style="text-align: right;">Page 37</p> <p>1 Gordy McGuire?</p> <p>2 THE WITNESS: He pulled out his</p> <p>3 cell phone and he called him.</p> <p>4 JUDGE GOLLIN: And you heard him</p> <p>5 say what?</p> <p>6 THE WITNESS: "Gordy, this is</p> <p>7 Mark."</p> <p>8 JUDGE GOLLIN: Was it a</p> <p>9 conversation or voice mail?</p> <p>10 THE WITNESS: A conversation.</p> <p>11 JUDGE GOLLIN: I want you to go</p> <p>12 through specifically what he said and what you</p> <p>13 recall. I don't want you paraphrasing the</p> <p>14 phone call. I want you to go through what was</p> <p>15 said, not just summarizing or anything to that</p> <p>16 effect.</p> <p>17 Q. What, if anything, did you hear</p> <p>18 Mr. Ackerson say on his part of the</p> <p>19 conversation on the phone?</p> <p>20 A. From what I recall of that night,</p> <p>21 he was making comments regarding that he asked</p> <p>22 Chris Bauer and Will Cannon-El, saying that</p> <p>23 they're not going to listen to the go-to guy,</p> <p>24 which is a comment that I never made.</p> <p>25 At that point I said, "Rick, you're</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. You waited ten minutes, and then</p> <p>2 what happened?</p> <p>3 A. Again --</p> <p>4 Q. Did he arrive?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Can you tell me what</p> <p>7 happened when he arrived?</p> <p>8 A. From what I recall, we were looking</p> <p>9 at the shop area, you could see him walking,</p> <p>10 it's a glass area, so his face is red, he's</p> <p>11 flush red.</p> <p>12 MR. ROSENTHAL: Objection to the</p> <p>13 characterization.</p> <p>14 JUDGE GOLLIN: He said his face was</p> <p>15 red.</p> <p>16 Okay. Then what happened?</p> <p>17 A. He comes in and he starts yelling.</p> <p>18 He goes off directly in my face, "Rick is your</p> <p>19 supervisor. He tells you what to do. I don't</p> <p>20 care who he appointments. You listen to him."</p> <p>21 I made clear to him that I never</p> <p>22 made those comments, I never said I wasn't</p> <p>23 going to listen to Mark, that Rick was making</p> <p>24 false statements.</p> <p>25 Q. Okay. When he walked into the</p>
<p style="text-align: right;">Page 38</p> <p>1 lying on me, I never said that."</p> <p>2 Chris raised his hand and said,</p> <p>3 "Will didn't say that, I said that," the</p> <p>4 comment about not listening to the go-to guy.</p> <p>5 And it came to a point where we all</p> <p>6 agreed if Gordy could join us, instead of being</p> <p>7 over the phone, could he join the meeting, so</p> <p>8 it wasn't a one-sided conversation.</p> <p>9 Q. Okay. What happened after that?</p> <p>10 A. After we requested him to join us</p> <p>11 at the meeting, Rick hung up the phone and we</p> <p>12 awaited -- Chris Bauer stated, "Do I have to</p> <p>13 wait here," "Can I return to work?"</p> <p>14 Rick said he could go to work, so</p> <p>15 Chris left the break room and went back to</p> <p>16 work. I still waited for Gordy to arrive.</p> <p>17 Q. How long did it take for Gordy to</p> <p>18 arrive?</p> <p>19 A. We waited about ten minutes.</p> <p>20 JUDGE GOLLIN: Who is Gordy?</p> <p>21 THE WITNESS: He's the Vice</p> <p>22 President of Quality.</p> <p>23 JUDGE GOLLIN: This was Gordy</p> <p>24 McGuire, right?</p> <p>25 THE WITNESS: Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 room, where were you within the room when he</p> <p>2 walked in?</p> <p>3 A. Say this is like the table that I'm</p> <p>4 sitting at, and Gordy was -- the door was on</p> <p>5 the right side, and he walks in, so from you</p> <p>6 guys to where I am. Behind you would be the</p> <p>7 break room wall where it's the glass, and he</p> <p>8 comes right into that little section, that's</p> <p>9 where the door comes in, so it's about that</p> <p>10 same distance. (Indicating)</p> <p>11 Q. Were you standing, sitting?</p> <p>12 A. Sitting.</p> <p>13 JUDGE GOLLIN: None of those</p> <p>14 measurements are going to make sense, so you're</p> <p>15 going to have to estimate from here to there.</p> <p>16 So how many feet?</p> <p>17 THE WITNESS: I would say like ten</p> <p>18 feet from the entrance of the door to where I'm</p> <p>19 sitting at the table when he came into the</p> <p>20 room.</p> <p>21 JUDGE GOLLIN: So about ten feet</p> <p>22 away?</p> <p>23 THE WITNESS: Yes.</p> <p>24 Q. Did he stay ten feet away?</p> <p>25 A. No.</p>

10 (Pages 37 to 40)

<p style="text-align: right;">Page 41</p> <p>1 Q. Where did he go when he came into 2 the room? 3 A. He approached me and he leans over 4 my desk and gets into my face. And I'm 5 starting to lean back in my chair to avoid him 6 coming closer because he didn't stop. And I 7 asked him, "Can you back up and calm down?" 8 And he says, "I don't have to calm 9 down. Don't tell me what to do." 10 At that point John -- 11 Q. So let me ask you this: When you 12 said he was leaning into your face, how close 13 was he to you? 14 A. He was a good six inches from my 15 face. If I hadn't retreated, he would have 16 been nose to nose with me. 17 Q. You retreated, and then what 18 happened? 19 A. John Poff walked back into the 20 room. He asked Gordy if Huck was the 21 supervisor or did we listen to Mark? 22 Gordy said, "You listen to Huck. 23 John said, "That's all I need to 24 know," walked back out of the room. 25 Gordy continued to make comments</p>	<p style="text-align: right;">Page 43</p> <p>1 against me about me not doing my work. 2 Q. What was your demeanor like during 3 this conversation? 4 A. I was pretty calm. 5 Q. What was Mr. McGuire's demeanor 6 like? 7 A. He was pretty belligerent. 8 Q. What was the tone of his voice? 9 A. He was yelling and very aggressive. 10 Q. How did the interaction end? 11 A. It ended with him screaming at us 12 to get back to work. And as I'm leaving, he 13 stopped me and said, "Do you think it was smart 14 of you and a good worker of you to disrespect 15 your supervisor the way you did?" 16 And I looked towards Rick and I 17 said, "Rick, did you think anything that I did 18 today was disrespectful?" 19 He said, "You did call me a liar." 20 I said, "Rick, you were lying on 21 me." 22 I asked Gordy, "Do you think it was 23 professional of you to get in my face the way 24 you did?" 25 And he looked at me, "I didn't get</p>
<p style="text-align: right;">Page 42</p> <p>1 toward me. 2 Q. What kind of comments did he make 3 towards you? 4 I guess, specifically what did he 5 say to you? 6 A. That they've got me on video not 7 being in my area, that I'm not allowed to step 8 outside to get fresh air. That's mostly what I 9 can recall at this point. 10 Q. Did you respond to Mr. McGuire when 11 he was making these accusations to you? 12 A. I asked, "Can I see the videos 13 where you have me outside?" 14 I asked -- the machine -- in the 15 shop we work in, there's no windows, no 16 ventilation, the air would be so thick with the 17 coolant that we work with, so sometimes I step 18 outside. 19 And I said, "I don't have the human 20 right just to get some fresh air?" 21 And he said, "No." He said, "The 22 State of Ohio said the air is good enough for 23 you to breathe, so that's it." 24 So I said okay. I continued to ask 25 can he validate the claims he was making</p>	<p style="text-align: right;">Page 44</p> <p>1 in your face." And he looks at Rick, "I didn't 2 get in his face." 3 And Rick said, "He didn't get in 4 your face." 5 So at that point I laughed it off 6 and I proceeded to get back to work. 7 Q. About how long did the meeting 8 last? 9 A. It was a good I'll say 35, 40 10 minutes. 11 Q. What did you do after the meeting? 12 A. I set up a new job, I pulled it out 13 and I ran production. 14 Q. Okay. What, if any, conversations 15 did you have with coworkers about what happened 16 at the meeting? 17 A. After I had time to wait for my 18 work, Chris approached me and we discussed 19 what's been going on and how we felt about the 20 meeting and how it kind of caused confusion 21 because now we don't know who we listen to 22 because nothing was ever clarified. And John 23 joined us and agreed that what happened was 24 pretty unprofessional, it could be handled in a 25 better way, we don't know who we listen to,</p>

11 (Pages 41 to 44)

<p style="text-align: right;">Page 45</p> <p>1 Huck, which is a supervisor for the whole 2 shift, or the new appointed go-to guy. 3 And we decided to -- that we needed 4 to get HR involved because their actions was 5 completely unprofessional. So we agreed to 6 come in an hour early before our shift the next 7 day. 8 MR. ROSENTHAL: Your Honor, I 9 didn't want to object, but I object that half 10 that's hearsay. 11 JUDGE GOLLIN: Well, he's relaying 12 about what he said or was said in a 13 conversation that he was privy to with two 14 other individuals. 15 And you're saying the other 16 individuals' statements are hearsay? 17 MR. ROSENTHAL: I am saying that. 18 JUDGE GOLLIN: Are you offering 19 them for the truth of the matter asserted or 20 are you offering them to explain the context of 21 the conversation? 22 MS. MURAROVA: It's to explain the 23 context of the conversation. The two 24 individuals will testify themselves. 25 MR. ROSENTHAL: I'll withdraw the</p>	<p style="text-align: right;">Page 47</p> <p>1 A. I just let her know that, "I'm here 2 to file a complaint because I was involved in a 3 situation the night before." 4 Q. Did anyone join you during that 5 conversation? 6 A. Yes. Upon me speaking with Tina, 7 Chris and John entered the room. 8 Q. Okay. And what, if anything, did 9 Tina tell the three of you? 10 JUDGE GOLLIN: Let me go through 11 this. I want you to go through the 12 conversations from when you arrived to 13 Ms. Loveless' office, let me know when someone 14 else arrives and what's said from there. So 15 starting from when you arrived in Tina's 16 office, tell me what you said to her. 17 THE WITNESS: When I went to 18 Ms. Loveless' office, I explained to her that I 19 was involved in a situation the night before 20 and I'd like to file a complaint. She said 21 okay, usually they're put in writing, so she 22 got me paper and a pen. And then at that 23 point, that's when Chris and John entered the 24 room. 25 JUDGE GOLLIN: Did you provide her</p>
<p style="text-align: right;">Page 46</p> <p>1 objection. 2 JUDGE GOLLIN: Okay. 3 Q. So you decided to get HR involved? 4 Did you go in the next day as you 5 had agreed? 6 A. Yes. 7 Q. What time did you arrive? 8 A. 4:30 p.m. 9 Q. Where did you go? 10 A. I went to the HR Department. 11 Q. Can you describe what the 12 HR Department looks like? 13 A. It's a pretty narrow hallway with 14 probably five or six different rooms. 15 Q. On both sides of the hallway? 16 A. Like four on the left and probably 17 three or four on the right. Probably between 18 six and eight rooms. 19 Q. When you arrived, did you go see 20 someone in particular? 21 A. Yes. Normally when I have things 22 like this, I see Joanne or Christine Steele, 23 but they both was out for personal issues, so I 24 went to Tina Loveless' office. 25 Q. What did you tell Tina?</p>	<p style="text-align: right;">Page 48</p> <p>1 with any context or explanation as to what type 2 of complaint you wanted to file? 3 THE WITNESS: No. 4 JUDGE GOLLIN: You just said you 5 wanted to file a complaint, and she said 6 usually they have their complaints in writing, 7 so please write it, and the two other 8 individuals came in? 9 THE WITNESS: Yes. 10 Q. Did they add anything to the 11 conversation? 12 A. When they came in, they greeted 13 Tina and explained the same thing, that they 14 was involved in a situation the night before 15 and they wanted to file complaints, as well. 16 Q. What did Tina reply to them? 17 A. She told them the same thing she 18 told me, that, "You've got to put it in 19 writing." 20 Q. What did you do then? 21 A. The three of us, since the room is 22 so small and there wasn't really places for us 23 to write our statements, we went down at that 24 time to the training room and we sat at 25 individual tables and wrote our statements.</p>

12 (Pages 45 to 48)

Page 49	Page 51
<p>1 Q. Do you know who finished their 2 statement first? 3 A. Chris finished first. 4 Q. What did he do when he was done? 5 A. He just left the room. 6 Q. Okay. Who finished second? 7 A. John. 8 Q. What did he do when he was done? 9 A. Left the room. 10 ----- 11 (Thereupon, General Counsel 12 Exhibit 2, was marked for purposes 13 of identification.) 14 ----- 15 Q. I want to show you what I've marked 16 as General Counsel Exhibit 2. 17 Do you recognize this statement, 18 Mr. Cannon-El? 19 A. Yes. 20 Q. What is this? 21 A. This is the complaint that I wrote 22 on May 26. 23 Q. And it looks like it has two pages 24 to it. 25 A. Yes.</p>	<p>1 office. The door was open the whole time. 2 Q. About how far was Deanna from you? 3 A. I'd say between eight to ten feet 4 away from me. 5 Q. Who would you say was closest to 6 Ms. Adams? 7 A. I would say John was closest. 8 Q. So what was going on when you got 9 there? 10 A. They was engaged in a discussion I 11 guess regarding the complaints that -- 12 MR. ROSENTHAL: I'm going to object 13 to his guessing. His sworn testimony -- 14 JUDGE GOLLIN: I'm going to sustain 15 the objection. 16 If you're present to hear what 17 they're saying, we can discuss that. But as 18 far as what they were talking about before you 19 got there, I'm not interested in hearing that 20 from this Witness. 21 Q. What did you hear them saying when 22 you got there? 23 A. Upon me entering, Chris was asking 24 about the validity of the go-to guy, Mark's 25 position. And at that point I didn't hear a</p>
Page 50	Page 52
<p>1 Q. Did you write this all in one 2 sitting? 3 A. Yes. 4 Q. What about the second page, is 5 everything -- 6 A. Towards the bottom, where it has 7 "HR representative," that was after. 8 Q. That was added later? 9 A. Later, within 20 minutes of my 10 writing the statement. 11 Q. We'll get into that. 12 A. Okay. 13 Q. So what did you do when you were 14 done writing this statement? 15 A. I proceeded to go back to Tina 16 Loveless' office, but she was -- she had 17 somebody there with her, so I joined Chris and 18 John in Deanna's office. 19 Q. Who is Deanna? 20 A. She's the HR rep. 21 Q. Can you describe the setup of 22 Deanna's office when you got there? 23 A. As I entered the door, I had Chris 24 off to my left and John to my right, and Deanna 25 was behind her desk. So it's a pretty small</p>	<p>1 response. 2 Q. Did you hear anything else? 3 A. No, not that I recall. 4 Q. Did you say anything? 5 A. Yes. I waited until their 6 conversation ended and then I asked her could I 7 ask a question, and she said yes. 8 Q. Did you ask a question? 9 A. I asked her, "If I'm filing a 10 complaint against the Vice President, who holds 11 him accountable?" 12 Q. Did she answer your question? 13 A. She said, "What's your complaint?" 14 And I proceeded to tell her my 15 complaint. 16 Q. Specifically what did you tell her? 17 A. I told her that I felt that his 18 comments and actions was racially motivated. 19 And she said, "It's got nothing to do with 20 race, so throw that out of it." 21 That's when I was like, "Wow, okay, 22 what about his comments?" 23 And I said, "He physically 24 threatened me, physically assaulted me," but I 25 meant physically threatened.</p>

13 (Pages 49 to 52)

Page 53	Page 55
<p>1 Q. You said, "physically assaulted." 2 Can you tell me what specifically 3 you were telling her? 4 Who was physically threatening? 5 A. I was telling her how his 6 actions -- his actions were very unprofessional 7 and physically threatening to me because he got 8 in my personal space and he was calling me -- 9 saying -- the racially-motivated thing was 10 classifying me, saying, "You're just like 11 everybody else" and things like that. 12 Q. Did you do any kind of 13 demonstration as to happened? 14 A. I demonstrated on John how close he 15 got in my face and how I felt it was 16 threatening. And she said that if he didn't 17 physically touch me, it's not assault. 18 And John said, "Yeah, if he didn't 19 spit on you or something, it's not assault." 20 So I said, Okay. That's fine." 21 And then she goes to say, "Well, 22 I'm trying to tell you the law." 23 And I'm thinking to myself, "I 24 didn't even ask a question for you to tell me 25 the law."</p>	<p>1 stepped into the hallway and asked her, "Well, 2 can I still file my complaint?" 3 She said, "No. You need to leave 4 or I'm calling the Police." 5 And I'm like, "What did I do?" 6 She said I'm being very aggressive. 7 And told her, "I'm not, I'm not being 8 aggressive. I just want to file my complaint." 9 She said, "You've got to the count 10 of three or I'm calling the Cops." 11 I said, "I just want to file my 12 complaint." 13 She screamed, "That's it," she 14 storms off. 15 And at that point I tried to go 16 file my complaint with Tina Loveless or 17 finished filing my complaint with Tina 18 Loveless, which I was able to. 19 Q. When you were speaking with 20 Ms. Adams, did you tell her about when this 21 complaint -- when these events that you were 22 complaining about occurred? 23 A. I just let her know that -- the 24 question was never posed, like when it happened 25 or anything like that. I just let her know</p>
Page 54	Page 56
<p>1 At that point she's saying, 2 "Whatever, whatever." (Indicating) 3 I'm like, "I don't understand." 4 And she proceeded to say, 5 "Whatever, whatever," waving her hands like 6 dismissing me. (Indicating) 7 Q. So right now you're waving your 8 hand. 9 Did she gesture while she was -- 10 A. Yes, she was literally, "Whatever, 11 whatever," as I'm speaking. (Indicating) 12 Q. Can you describe that, because this 13 is going to be on a transcript, how she 14 was moving her hand? 15 A. She was waving like this, like she 16 was annoyed, like, "Whatever, whatever." And 17 this is as I'm speaking. (Indicating) 18 So at that point I digressed. I 19 said, "You know what, I see we're not going 20 anywhere. I'm going to add your name to my 21 complaint because you're acting very 22 unprofessional, and to me you're conspiring 23 against me from filing my complaint." 24 At that point she got upset, she 25 screamed at me to get out of her office, so I</p>	<p>1 that -- the initial question that I asked was, 2 "Who holds him accountable," but she never 3 answered that question. 4 Q. During this time did you ever 5 walked towards Ms. Adams? 6 A. No. 7 Q. Did you ever change your position 8 within where you were in the office? 9 A. Other than when I went to this 10 little cabinet area to write her name down, 11 that is just to the left, I was probably 12 standing within two feet within the doorway. I 13 was in her office, but I was in the doorway. 14 Other than me going to the left to write her 15 name down, and then to leave the office, those 16 was the only two motions that I made. 17 Q. What were Mr. Poff and Mr. Bauer 18 doing during this time? 19 A. They were just standing there. 20 Q. Were they still in Ms. Adams' 21 office? 22 A. Yes. 23 Q. Were they still there when you 24 left? 25 A. Yes.</p>

14 (Pages 53 to 56)

Page 57	Page 59
<p>1 Q. How much time do you think passed 2 between when Ms. Adams first told you to leave 3 and when she said she was going to call the 4 Police? 5 A. Probably two, maybe three minutes 6 because it was like sporadic. It happened -- 7 when she told me to leave, I left, went into 8 the hallway, and then she storms out of her 9 office, gets in my face. 10 Q. And you mentioned that you went to 11 Tina Loveless' office after Ms. Adams told you 12 to leave; is that right? 13 A. Yes. 14 Q. And what, if any, conversations did 15 you have with Ms. Loveless? 16 A. I asked her, "Can you please file 17 my complaint, make copies of it so I can 18 leave?" 19 She took the papers, she made 20 copies, gave me my copy, and I proceeded to 21 leave. 22 Q. You said you proceeded to leave. 23 Where did you go? 24 A. I left her office, proceeded down 25 the HR hallway. At this point Ms. Adams is</p>	<p>1 MS. MURAROVA: I would like to move 2 to enter General Counsel Exhibit 2. 3 JUDGE GOLLIN: The only issue that 4 I raise with regard to General Counsel 5 Exhibit 2 is, there appear to be words that are 6 cut off on the left side at the bottom of the 7 first page. I don't know if there's a better 8 copy that can be this document so that there 9 aren't words cut off or cut off on my copy. 10 Is there an original that we can 11 make copies from? 12 MS. MURAROVA: I will look into 13 that during a break, your Honor. 14 JUDGE GOLLIN: Okay. 15 MR. MARTIN: No objection. 16 JUDGE GOLLIN: I mean, I don't want 17 to be left guessing as to what these words are 18 or have them be misquoted in Briefs or in 19 decisions, so to the extent that there's an 20 original that we can make sure that we have a 21 complete copy of, that's preferable. 22 MS. MURAROVA: It may just be a 23 copying error, so I will look through our 24 documents that we received during our 25 investigation.</p>
Page 58	Page 60
<p>1 coming back toward me, so as far as my 2 knowledge, she called the Police, so I pulled 3 out my cell phone and called my sibling to come 4 down because at this point I'm fearful for my 5 life. I don't know what she told the Police. 6 I don't know what she told them, so I called my 7 sibling to come down to be with me at this 8 time. And I just proceeded down the hallway. 9 Like I said, she walked past me and 10 tells me that if I just would have let it go, 11 none of this would have happened. She said, "I 12 called the Cops." 13 I proceeded out the HR Department 14 and I entered the lobby, where the receptionist 15 area is, and I sat peacefully until my sibling 16 arrived. 17 ----- 18 (Thereupon, General Counsel 19 Exhibit 3 was marked for purposes of 20 identification.) 21 ----- 22 Q. I'm going to show you what I'm 23 going to mark as General Counsel Exhibit 3. 24 JUDGE GOLLIN: What are you going 25 to do with General Counsel Exhibit 2?</p>	<p>1 JUDGE GOLLIN: Okay. 2 MR. ROSENTHAL: Your Honor, ours is 3 the same as yours. 4 JUDGE GOLLIN: Okay. I mean, 5 there's two choices with this; one, we get a 6 clearer copy or we have the Witness, who penned 7 this, read what it should say. So those are 8 the real options. 9 Q. Mr. Cannon-El, looking at General 10 Counsel Exhibit 2, can you read what the very 11 bottom sentence on that page says? 12 It's starting with, "He then." 13 A. On this one? (Indicating) 14 Q. Yes. At the very bottom, the last 15 sentence starts with, "He then went on." 16 A. "He then went on to belittle me in 17 front of four others, including Rick Ackerson, 18 by marginalizing me by saying I'm just like 19 everyone else because he says so." 20 Q. Okay. So I'm going to show you 21 General Counsel Exhibit 3. 22 Do you recognize this document, 23 Mr. Cannon-El? 24 A. Yes. 25 Q. What is it?</p>

15 (Pages 57 to 60)

Page 61	Page 63
<p>1 A. This is like a blueprint or -- this 2 is a blueprint of the first floor of the Meyer 3 Tool building. 4 Q. Is this the building that 5 you work in? 6 A. No. 7 Q. And where is the building that you 8 work in in relation to this building? 9 A. It would be across Colerain Avenue, 10 across the street. 11 Q. What department is shown in this 12 document? 13 A. This is like the HR to the left, 14 and then to the right is just a presentation of 15 the stairs and things like that. 16 Q. Does this accurately reflect sort 17 of where the various rooms are within this 18 building? 19 A. Yes. 20 Q. What about there's some titles that 21 say things like "Training Room," "Deanna," 22 "Christine." 23 To the best of your knowledge, does 24 that accurately reflect who or what is in each 25 of those rooms?</p>	<p>1 Q. This is your position at what time? 2 A. You mean time of day? 3 Q. What point within the events are 4 these, C1, P1, B1, D1? 5 A. After we've written our complaints 6 and we entered Ms. Adams' office. 7 Q. And then I see there's C2 and a D2. 8 A. C2 is my second position after she 9 screamed for me to leave. And D2 is when she 10 came out of her office, into my face and told 11 me she's calling the Police. 12 Q. And I can't tell what this 13 handwriting says, but it looks like there's 14 something between the copier and fax and the 15 mail room. 16 A. It looks like a cappuccino machine 17 was sitting there. 18 Q. And where on here did you go after 19 Ms. Deanna Adams told you to leave? 20 A. When she told me to leave her 21 office, that's where I was, C2. And then once 22 she said to clock out and go home for the day 23 or she's calling the Police and storms out of 24 the office, she storms out of the office and I 25 go to Tina Loveless' office to finish my</p>
Page 62	Page 64
<p>1 A. Yes. 2 Q. And I see that there's some 3 handwriting on this document. 4 One of the -- I guess I'll start 5 with the handwriting in the -- what I assume is 6 an office. 7 Is that an office that says 8 "Deanna"? 9 A. Yes. 10 Q. And I see there's some handwriting 11 in that section. 12 Do you know whose handwriting that 13 is? 14 A. Yes. 15 Q. Whose handwriting is that? 16 A. Mine. 17 Q. And can you describe to me what is 18 signified by each of the handwritten notes -- 19 A. Yes. 20 Q. -- on here? 21 A. Where it says C1, P1, B1, C1 is me, 22 my first position in Ms. Deanna's room, P1 is 23 John Poff's position in Deanna's room, and B1 24 is Chris Bauer's position in Deanna's room, and 25 D1 is where Deanna is sitting.</p>	<p>1 complaint. When she returns, I go into the 2 lobby. And I had it marked. I go into the 3 lobby. 4 Q. Okay. What did you do in the 5 lobby? 6 A. I sat there until my sibling 7 arrived. 8 Q. Did you see anyone else in the 9 hallway while you were in it? 10 A. When I was in the hallway, upon 11 leaving, and I was on the phone with my 12 sibling, Rick Ackerson was standing there. 13 Again, Ms. Adams approached me I 14 guess to go back into her office, because once 15 I turned my back I didn't see where she went, 16 and that's all I seen in the hallway. 17 JUDGE GOLLIN: So as you were 18 walking from her office -- from Tina's office 19 to the lobby, you crossed Ms. Adams' path; is 20 that what you're saying? 21 THE WITNESS: Yes. 22 JUDGE GOLLIN: She said something 23 to you at that point? 24 THE WITNESS: Yes. 25 JUDGE GOLLIN: She again said what?</p>

16 (Pages 61 to 64)

<p style="text-align: right;">Page 65</p> <p>1 THE WITNESS: She said none of this 2 would have happened if I had just let it go. 3 JUDGE GOLLIN: That's all that was 4 said between the two of you? 5 THE WITNESS: I made the comment 6 could she please stop talking to me because she 7 went and called the Police. 8 JUDGE GOLLIN: You went and sat in 9 the lobby? 10 THE WITNESS: Yes. 11 JUDGE GOLLIN: And you're saying at 12 that point you then saw Mr. Ackerson at some 13 point? 14 THE WITNESS: Mr. Ackerson was 15 present that whole time. When I was leaving, 16 she was on the phone, Mr. Ackerson was standing 17 in the hallway the whole time. 18 JUDGE GOLLIN: So he was standing 19 in the hallway the whole time? 20 Between when you had the 21 conversation with Ms. Adams outside of her 22 office, and then went to Tina's office, and 23 then went and walked down to the lobby, you're 24 say Mr. Ackerson was there that entire period 25 of time?</p>	<p style="text-align: right;">Page 67</p> <p>1 MS. MURAROVA: I'm going to stop 2 here for a moment. I'd like to move for the 3 admission of General Counsel Exhibit 3. 4 MR. ROSENTHAL: No objection. 5 JUDGE GOLLIN: With no objection, 6 General Counsel Exhibit 3 is received. 7 ----- 8 (Thereupon, General Counsel 9 Exhibit 3 was received into 10 evidence.) 11 ----- 12 Q. Within 60 seconds of you going 13 outside, the Police arrived. 14 What happened? 15 You were outside when they arrived, 16 is that what you said? 17 A. Yes. 18 Q. Then what happened? 19 A. Well, I pulled my cell phone out 20 and I started to record for Police 21 accountability and to show that I did nothing 22 wrong and I wasn't aggressive, plus to get 23 Ms. Adams' statement to the Police. 24 One of the Police Officers went to 25 Ms. Adams and asked her what happened. They</p>
<p style="text-align: right;">Page 66</p> <p>1 THE WITNESS: I wouldn't say that 2 entire time, but the time from when I left 3 Ms. Loveless' office and I was proceeding down 4 the hallway is when I acknowledged him and seen 5 that he was there. 6 JUDGE GOLLIN: Okay. All right. 7 Q. Why did you wait in the lobby? 8 A. I waited because Ms. Adams was 9 outside, and I didn't want to go outside and 10 make a scene, make this a bigger scene than it 11 was, so I figured if I sat peaceably, when the 12 Police arrived, I figured they'd see there was 13 no reason to cause a scene, like I was fleeing 14 the scene like I did something wrong. 15 And I also wanted to note what 16 Ms. Adams stated to the Police, is another 17 reason why I stayed. 18 Q. And did the Police arrive? 19 A. Yes. 20 Q. How quickly did the Police arrive? 21 A. As I was sitting in the lobby, I 22 seen my sibling walking up, so I went outside 23 and I greeted her and was standing there, and 24 probably 60 seconds from me greeting her or 25 standing there, two Cop cars pulled up.</p>	<p style="text-align: right;">Page 68</p> <p>1 asked her, "Was he terminated?" 2 She said, "No." 3 Q. Who asked -- 4 A. The Police Officer asked Ms. Adams. 5 And then I asked was I terminated, 6 and she answered, "No. He was asked to go, to 7 go home for the day. He was asked to leave my 8 office and he refused. He was asked to leave 9 the premises and he still refused, so he has to 10 go to jail." Those were her statements to the 11 Police. 12 The Police Officer asked me did I 13 have any comments, and I just reserved my right 14 to remain silent. 15 And they just said, "The company 16 wants you to go," and I said, "Fine." 17 Q. Were you charged with anything as a 18 result of that Police interaction? 19 A. No. 20 Q. How would you describe your 21 demeanor with Ms. Adams on May 26? 22 A. I was calm, tried to be as peaceful 23 as possible with everyone. 24 Q. How would you describe Ms. Adams' 25 demeanor?</p>

17 (Pages 65 to 68)

Page 69	Page 71
<p>1 A. It was -- it seemed professional 2 when I entered, but the moment that we 3 disagreed and I added her to my complaint, she 4 was belligerent. She was upset. She was kind 5 of crazy. 6 JUDGE GOLLIN: What did she say? 7 What did she do? 8 I need descriptions. 9 THE WITNESS: She screamed at me 10 to, "Get out of the my office" the moment I 11 added her to my complaint. And then she 12 continued to scream at me to my face when I 13 left her office, when I further tried to add 14 her to my complaint. Those kind of actions to 15 me were belligerent. 16 JUDGE GOLLIN: That's fine. I just 17 want to know what was said, though. 18 Q. During your interaction with 19 Ms. Adams, did you ever yell at her? 20 A. No. 21 Q. Did you curse at her or use any 22 profanity towards her? 23 A. No. 24 Q. Did you make any threats toward 25 her?</p>	<p>1 MS. MURAROVA: General Counsel 2 Exhibit 4. 3 ----- 4 (Thereupon, General Counsel 5 Exhibit 4, was marked for purposes 6 of identification.) 7 ----- 8 MR. ROSENTHAL: Your Honor, the 9 fact that the hearsay is reflected in a text 10 message doesn't make it any less hearsay 11 MS. MURAROVA: Your Honor, Mr. Poff 12 is going to be testifying today, and I think 13 this text message is corroborative because -- 14 because it's corroborative of what you will 15 hear Mr. Poff testify to, it should be 16 admitted. 17 JUDGE GOLLIN: Well, the Witness 18 has before him GC Exhibit 4. 19 The darkly-shaded portions of the 20 text, it says "I talked to Chris and we agreed 21 to meet at 4:30 p.m. tomorrow," is that your 22 text -- 23 THE WITNESS: Yes. 24 JUDGE GOLLIN: -- your text to 25 John?</p>
Page 70	Page 72
<p>1 A. No. 2 Q. Did you tell Ms. Tina Loveless that 3 Ms. Deanna Adams would pay for what she did? 4 A. No. 5 Q. Did you wave your arms around? 6 A. No. 7 Q. Did you see Ms. Adams crying? 8 A. No. 9 Q. Did she look shaken to you? 10 A. No. 11 Q. After you left the premises, did 12 you talk to any coworkers about -- or 13 communicate with any coworker about what 14 happened that day? 15 A. The moment that I left, I received 16 a text message from John Poff stating that he 17 was in there the whole time, not once did I 18 raise my -- 19 MR. ROSENTHAL: I'm going to object 20 to the hearsay. 21 JUDGE GOLLIN: What's it being 22 offered for? 23 MS. MURAROVA: If I may, I can 24 enter an Exhibit instead. 25 JUDGE GOLLIN: Okay.</p>	<p>1 There's a reply, and then there's 2 "Call me real fast. I just tried calling you." 3 That's also you? 4 THE WITNESS: Yes. 5 JUDGE GOLLIN: So I'm not going to 6 receive it if the Witness is going to be able 7 to authenticate the remaining portions of it. 8 But you did receive these replies 9 from the person who you have programmed in your 10 phone as being John E. Poff; is that correct? 11 THE WITNESS: Yes. 12 JUDGE GOLLIN: So I'm going to 13 receive his portions that he sent because he 14 can authenticate them. The other Witness is 15 going to be here to be able to authenticate 16 their portions of it. 17 Do you reasonably dispute that this 18 was sent or received? 19 MR. ROSENTHAL: I do not reasonably 20 dispute that. And if Mr. Poff testifies and 21 authenticates that, then I will withdraw my 22 objection. 23 JUDGE GOLLIN: All right. Since we 24 have the Witness, we don't really have to worry 25 about it if he's going to authenticate it.</p>

18 (Pages 69 to 72)

Page 73	Page 75
<p>1 Like I said, with regard to the</p> <p>2 text, I'm going to withhold the ruling to have</p> <p>3 Mr. Poff, who does agree to be a Witness with</p> <p>4 us here today, authenticate his portions of</p> <p>5 this text exchange.</p> <p>6 Just to be clear of the Witness,</p> <p>7 there's been no texts in between these texts</p> <p>8 that have been deleted or erased; is that</p> <p>9 correct?</p> <p>10 THE WITNESS: That's correct.</p> <p>11 JUDGE GOLLIN: Okay. So this is</p> <p>12 the exchange as it relates to your</p> <p>13 communication with Mr. Poff on this date and</p> <p>14 time?</p> <p>15 THE WITNESS: The top part was the</p> <p>16 25th, the night before, and then this is the</p> <p>17 26th, was that day.</p> <p>18 What does it say 5:20?</p> <p>19 That's the 26th.</p> <p>20 JUDGE GOLLIN: So anything about</p> <p>21 "today" happened on the 25th?</p> <p>22 THE WITNESS: Yes.</p> <p>23 JUDGE GOLLIN: And everything that</p> <p>24 happened on the 26th says "Today at 5:00 p.m."?</p> <p>25 THE WITNESS: Yes.</p>	<p>1 inquiring about my job status, if I was</p> <p>2 terminated, what's happening, and she said</p> <p>3 she'd give me a call back.</p> <p>4 She calls me back -- I believe her</p> <p>5 name was Nikki Fugate, was on the phone. She</p> <p>6 calls me with her on the phone, and they</p> <p>7 informed me that an investigation was being</p> <p>8 started and they'll let me know what happens</p> <p>9 after the investigation.</p> <p>10 Q. What, if any, part did you have in</p> <p>11 this investigation?</p> <p>12 A. I came in and gave a statement.</p> <p>13 Q. Where were you when you came to</p> <p>14 give the statement?</p> <p>15 Was it in person?</p> <p>16 A. Yes.</p> <p>17 Q. Where?</p> <p>18 At the facility?</p> <p>19 A. Yes.</p> <p>20 Q. Where in the facility?</p> <p>21 A. The training room area.</p> <p>22 Q. And who did you meet with?</p> <p>23 A. It was Nikki Fugate, Becky Schwartz</p> <p>24 and Paul Rowland.</p> <p>25 Q. What happened at that meeting?</p>
Page 74	Page 76
<p>1 JUDGE GOLLIN: All right.</p> <p>2 Q. Did you ever return to the premises</p> <p>3 after May 26?</p> <p>4 A. Yes.</p> <p>5 Q. And when did you return?</p> <p>6 A. The next day, the 27th.</p> <p>7 Q. What happened when you returned?</p> <p>8 A. I returned to try to pick up my</p> <p>9 paycheck and to put my vacation days in so I</p> <p>10 could be paid for those days that I was told to</p> <p>11 get off, the following day. But when I</p> <p>12 arrived, I tried my thumbprint to enter the</p> <p>13 building because I didn't have my badge, and it</p> <p>14 didn't work, so I knocked on the door.</p> <p>15 An employee seen me and he walked</p> <p>16 away. And then I was greeted by -- it was a</p> <p>17 night shift supervisor named Stan, and he told</p> <p>18 me that Meyer said they don't want me on the</p> <p>19 premises, and he gave me my paycheck, and I</p> <p>20 left.</p> <p>21 Q. Do you know Stan's last name?</p> <p>22 A. No, I don't.</p> <p>23 Q. Did you have any other interactions</p> <p>24 with any Meyer Tool representatives after that?</p> <p>25 A. Other than I called Tina Loveless</p>	<p>1 A. They said it was a factfinding</p> <p>2 meeting, and they just asked me what happened</p> <p>3 on the 25th and what happened on the 26th.</p> <p>4 Q. So you talked about both days at</p> <p>5 the meeting?</p> <p>6 A. Yes.</p> <p>7 Q. What did you tell them?</p> <p>8 A. I told them how we had a meeting on</p> <p>9 the 25th, that we had -- like me and two other</p> <p>10 employees was trying to get an understanding of</p> <p>11 what a go-to-guy meant and trying to file a</p> <p>12 complaint about the professionalism of both</p> <p>13 Rick Ackerson and Gordy McGuire.</p> <p>14 Q. How long was the meeting?</p> <p>15 A. I'll say it was like a good 45</p> <p>16 minutes.</p> <p>17 Q. What did you tell them about what</p> <p>18 happened on the 26th?</p> <p>19 A. I just told them that I came in to</p> <p>20 file a complaint, I was met with hostility, and</p> <p>21 the Police were called on me.</p> <p>22 Q. What, if anything, did you tell --</p> <p>23 strike that.</p> <p>24 What, if anything, did you tell the</p> <p>25 committee about Deanna's conduct on the 26th?</p>

19 (Pages 73 to 76)

Page 77	Page 79
<p>1 A. I told them she was very 2 unprofessional. 3 Q. What, if anything, was discussed 4 about the Employee Handbook at the meeting, the 5 Investigation Committee? 6 A. That I talked to them regarding how 7 Gordy McGuire violated a violence policy of the 8 handbook and how Deanna violated the 9 professionalism clause in the handbook. 10 JUDGE GOLLIN: Did you give a 11 written statement at the second -- at this -- 12 THE WITNESS: No. They didn't ask 13 me to write anything down. They was taking 14 notes themselves. 15 JUDGE GOLLIN: Okay. 16 Q. So what was your next interaction 17 with Meyer Tool after that meeting? 18 A. On June 8, I had called Christine 19 Steele's office to let her know that some 20 paperwork that me and her discussed prior to 21 all this happening that I had, and I was trying 22 to see if she could put it in my personnel 23 file. 24 She called me back around five and 25 told me how Meyer came to the conclusion that</p>	<p>1 A. It's a termination letter that I 2 received from Meyer. 3 Q. There's something that's underlined 4 and handwriting next to it. 5 Was that there when you read it? 6 A. Yes. 7 Q. Who did that? 8 A. I did. 9 Q. Both the writing and underlining? 10 A. Yes. 11 MS. MURAROVA: I'd like to enter 12 General Counsel Exhibit 5 into evidence. 13 MR. ROSENTHAL: No objection. 14 JUDGE GOLLIN: I'm assuming you are 15 moving for its introduction minus the 16 underlining, question marks and the word 17 "viable" next to it, because that does not 18 appear to be part of the original document 19 submitted to the Witness. 20 MS. MURAROVA: Yes. 21 JUDGE GOLLIN: Based upon that 22 clarification, do you have any objections? 23 MR. ROSENTHAL: None, your Honor. 24 JUDGE GOLLIN: So GC Exhibit 5, the 25 termination letter, is received into evidence,</p>
Page 78	Page 80
<p>1 they was going to terminate my employment. And 2 that was the last interaction I had with her. 3 Q. More specifically, did she tell you 4 how they reached that conclusion? 5 A. She said that they alleged that I 6 violated the violence policy of Meyer's 7 handbook. When I asked her who was I violent 8 toward, she said just, "I'm reading what I have 9 here." She continued reading. She continued 10 to read what she had. I told her thank you and 11 we hung up. 12 Q. Did you ever get anything in 13 writing confirming that you were terminated? 14 A. Yes. 15 ----- 16 (Thereupon, General Counsel 17 Exhibit 5, was marked for purposes 18 of identification.) 19 ----- 20 Q. I'm going to show you what's been 21 marked as General Counsel Exhibit 5. 22 Do you recognize this document, 23 Mr. Cannon-EI? 24 A. Yes. 25 Q. What is it?</p>	<p>1 with the clarification that I offered. 2 ----- 3 (Thereupon, General Counsel 4 Exhibit 5 was received into 5 evidence.) 6 ----- 7 Q. Prior to being terminated, have you 8 ever received any kind of discipline at Meyer 9 Tool before? 10 A. No. 11 Q. What, if any, efforts did you make 12 to find the Police Report for what happened? 13 A. I went down -- I don't recall the 14 day that I did, but it was before the 15 Investigation Committee, I went down to City 16 Hall to look for the records, the Police Report 17 and the Police voice call. 18 Q. Did you receive the Police Report? 19 A. Yes. 20 Q. I'm going to show you what I've 21 marked as General Counsel Exhibit 6. 22 MS. MURAROVA: Actually, I withdraw 23 that at this time. I'll save it for now, your 24 Honor. I have no further questions at this 25 time.</p>

20 (Pages 77 to 80)

<p style="text-align: right;">Page 81</p> <p>1 JUDGE GOLLIN: All right. So as it 2 relates to the Witness, the handwritten 3 complaint -- the handwritten statement the 4 Witness provided, there's still letters missing 5 in it, so to the extent -- I mean, I know it's 6 the bottom of the page and you had him read 7 through that, but if you look at the left side 8 of the page, there's still things missing. So 9 to the extent that we have a better copy of 10 this, that would be preferable to having it 11 being offered. 12 I understand Respondent doesn't 13 have any objection to the document, but I want 14 to make sure that I have a complete copy of the 15 document. 16 General Counsel Exhibit 4, we're 17 going to wait until Mr. Poff testifies for him 18 to authenticate his portions of the text. 19 Any questions of the Witness? 20 MS. GRUBB: Your Honor, you said 21 just to let you know if I wanted to be part of 22 the direct examination. 23 JUDGE GOLLIN: Sure. Absolutely. 24 MS. GRUBB: Thank you. 25 - - - - -</p>	<p style="text-align: right;">Page 83</p> <p>1 Q. Mr. Poff, was he a long-term 2 employee? 3 A. Yes. 4 Q. Did he generally speak for the 5 other employees? 6 A. Yes. 7 MR. ROSENTHAL: I'm going to 8 object. 9 JUDGE GOLLIN: Well, I'm going to 10 sustain the objection and I'm going to ask you 11 the question. 12 Have there been other meetings in 13 the past that occurred similar to the one that 14 you had on May 25, with employees present with 15 supervisors speaking to them? 16 THE WITNESS: Yes. 17 JUDGE GOLLIN: Has Mr. Poff in the 18 past spoken in those meetings? 19 THE WITNESS: Yes. 20 JUDGE GOLLIN: In the past has he 21 raised issues that you're aware of during these 22 meetings with management? 23 THE WITNESS: Relative to work, 24 like the workload, as far as the work? 25 JUDGE GOLLIN: Has he raised issues</p>
<p style="text-align: right;">Page 82</p> <p>1 BY MS. GRUBB: 2 Q. Mr. Cannon-El, let's go back to 3 May 25, the meeting in which Mr. Ackerson was 4 first there, and then Mr. Gordy. 5 There were a number of individuals 6 that you mentioned were present in the room, 7 specifically Mr. Poff and Mr. Bauer, who were 8 verbally participating; is that correct? 9 A. Correct. 10 Q. What were the other I believe three 11 individuals doing during this meeting? 12 A. They were just there, not really 13 saying anything, just present. 14 Q. Okay. At any time did they voice 15 agreement with the comments that you've made? 16 A. Regarding -- 17 Q. Regarding who is the go-to guy, is 18 he legitimate. You testified that Mr. Bauer 19 also asked is he legitimate. 20 A. That I recall offhand, I would say 21 there was some "yeahs," like everybody wanted 22 to know if it was real, that he's like an 23 actual position. As far as like the extent 24 that me and Chris and John were, I would say 25 nobody was as verbal.</p>	<p style="text-align: right;">Page 84</p> <p>1 generally at these meetings? 2 THE WITNESS: Yes. 3 JUDGE GOLLIN: So I think that as 4 far as the spokesperson, that's a 5 characterization, but as far as the past 6 practice of it, I mean, he can testify that 7 he's spoken in the past. 8 Q. This particular evening, on May 25, 9 after he was speaking, did the other employees 10 agree, disagree with what he was saying? 11 A. I would say they agreed for the 12 most part, yes. 13 Q. Did they verbalize it or did they 14 gesture their agreement? 15 A. A little of both. When I say to 16 the extent of being as outspoken as Chris, 17 myself and John were, no. But like little, 18 yeah, shaking their head like, "Yeah, I'd like 19 to get more information about a question that 20 John posed" or regarding a question that I 21 asked. 22 Q. In past meetings had they similarly 23 agreed or disagreed with Mr. Poff's statements 24 to management? 25 MR. ROSENTHAL: Your Honor, I'm</p>

21 (Pages 81 to 84)

<p style="text-align: right;">Page 85</p> <p>1 going to object. There's no 8(1) allegation as 2 to Poff or Bauer. I don't see the relevance of 3 this. 4 JUDGE GOLLIN: Well, if your 5 objection is relevance, I'm going to overrule 6 it. If your objection -- 7 MR. ROSENTHAL: It's beyond the 8 scope of the complaint. If you've got a basis 9 for me, I'll -- 10 JUDGE GOLLIN: I'm just saying, 11 relevance, I'm going to allow it based on 12 relevance. 13 If your objection is asking the 14 Witness to characterize or confirm the 15 characterization of, generally speaking, what 16 Mr. Poff did or was considered as, I will 17 sustain that. 18 MR. ROSENTHAL: That must be my 19 objection, your Honor. 20 JUDGE GOLLIN: Again, if you want 21 to go to specifically what was said, as opposed 22 to having this Witness characterize Mr. Poff as 23 something or not as something -- 24 Q. Now let's move on to Mr. Bauer. 25 When he was speaking in the May 25</p>	<p style="text-align: right;">Page 87</p> <p>1 Q. When you're saying "us" and "we," 2 who were you referring to, the "us" and "we"? 3 JUDGE GOLLIN: I think his 4 testimony was he was referring to what 5 Mr. Bauer said after he spoke about it. 6 Correct. 7 THE WITNESS: Yes. Well, it was 8 regarding the -- 9 JUDGE GOLLIN: I understand. You 10 testified about what you said, and then you 11 testified about what Mr. Bauer said. 12 THE WITNESS: Yes. 13 JUDGE GOLLIN: So what's your 14 question then? 15 Q. Let's go back to the basis. 16 When you were speaking in the 17 meeting, did you use the words "we" and "us"? 18 A. Yes, when I was asking, "Why do we 19 need a baby-sitter at this point?" 20 Q. Who did you believe was the "we" 21 and the "us"? 22 MR. ROSENTHAL: Objection. 23 A. Night shift. 24 JUDGE GOLLIN: What's the 25 objection?</p>
<p style="text-align: right;">Page 86</p> <p>1 meeting, were other people agreeing or 2 disagreeing with him? 3 JUDGE GOLLIN: Again, verbally 4 saying something that would be an affirmation 5 or agreement or physically gesturing in some 6 way that would be viewed as an agreement. 7 THE WITNESS: No. Bauer was more 8 or less speaking on himself, you know, 9 regarding how he's not going to listen to the 10 go-to guy, that the go-to guy is not in his 11 area, his particular field of work, and that he 12 doesn't want to listen to a guy that doesn't 13 know his area of expertise or his field of work 14 that he does. So, no, it wasn't in agreement. 15 He was speaking on his own. 16 Q. And then when you were speaking at 17 the May 25 meeting, did you testify -- you 18 testified to what you said to Mr. Ackerson. 19 Did anybody else chime in or speak, 20 as well, with you? 21 A. I would say Chris did on a few 22 occasions where I said, you know, "Why do we 23 need a baby-sitter at this point?" 24 And he was like, "Yeah, why does 25 night shift need one all of a sudden?"</p>	<p style="text-align: right;">Page 88</p> <p>1 His subjective view being 2 irrelevant? 3 MR. ROSENTHAL: Yes. 4 JUDGE GOLLIN: It is. I'll sustain 5 the objection. 6 Q. As far as Mr. Gordy McGuire -- 7 Mr. Poff had left the room at the time he came 8 in. 9 Did Mr. Gordy McGuire approach 10 anyone else within you said six inches? 11 A. No. 12 Q. And during the time that he 13 approached you within that six inches, what 14 were the other individuals in the room doing? 15 A. Just sitting and watching. 16 Q. And what was Mr. Ackerson doing? 17 A. The same, sitting and watching. 18 Q. As far as May 26 -- 19 JUDGE GOLLIN: Can I interrupt you 20 for one moment? 21 I apologize. 22 (Discussion had off record.) 23 Q. As far as May 26, at any time did 24 Mr. Ackerson say anything to you? 25 A. No.</p>

22 (Pages 85 to 88)

<p style="text-align: right;">Page 89</p> <p>1 Q. And he was in the hall, you 2 testified?</p> <p>3 A. Yes.</p> <p>4 Q. And did he move toward you?</p> <p>5 A. He stood in a certain area. I 6 wouldn't say he moved toward me, but I was 7 walking in that area, and then he -- I moved 8 toward him because he was like standing toward 9 the lobby area as I was entering the lobby. He 10 followed me as I sat in the lobby.</p> <p>11 Q. My question first was, did he move 12 toward you?</p> <p>13 A. Did you move at any time toward 14 him?</p> <p>15 A. I wouldn't say I moved toward him, 16 but I moved in his direction because he was 17 standing by the doors.</p> <p>18 Q. Did he or anyone else say "Stop" or 19 make any physical gesture toward you in a 20 breaking manner?</p> <p>21 A. No.</p> <p>22 Q. Did he or anyone else tell you, "Go 23 in the lobby" or give you any other instruction 24 when you were in the hallway?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. Did anybody shut their door because 2 of the noise?</p> <p>3 A. No.</p> <p>4 Q. Did anyone start to show any types 5 of physical crying or standing up, yelling, 6 anything of that nature?</p> <p>7 A. Standing up yelling, yeah, Deanna. 8 But as far as crying or any type of fear, no.</p> <p>9 Q. So when you observed these HR 10 individuals in their offices, they were sitting 11 in the chairs?</p> <p>12 A. I recall seeing -- I recall 13 seeing -- I don't know the lady's name, but 14 it's the office next to the cappuccino machine, 15 I seen her there with someone, she was with 16 someone. And I do recall seeing Maria. I 17 don't know if she was in her office sitting or 18 I seen her in the hallway. I don't recall. I 19 just recall seeing them.</p> <p>20 Q. Did any of the HR ladies run to the 21 doorway or try to leave?</p> <p>22 A. No.</p> <p>23 Q. Now, there's two doorways on the 24 hallway, correct, one goes into the lobby and 25 one goes outside?</p>
<p style="text-align: right;">Page 90</p> <p>1 Q. Did anyone advise you to lower your 2 voice?</p> <p>3 A. No.</p> <p>4 Q. Now, you said that you went into 5 Ms. Loveless' office to provide the complaint, 6 the final complaint, correct?</p> <p>7 A. Yes.</p> <p>8 Q. How close was her office to 9 Deanna's?</p> <p>10 A. If you go out Deanna's office, 11 Tina's was a little ways down the hallway, not 12 too far, like two or three feet downwards. 13 It's not like you could look out Deanna's and 14 see Tina's. It's a little bit down the 15 hallway.</p> <p>16 Q. And all the doors were open?</p> <p>17 A. Yes.</p> <p>18 Q. So did you see other HR individuals 19 there?</p> <p>20 A. I don't recall seeing any in the 21 hallway, but I do recall seeing them in their 22 offices.</p> <p>23 Q. Did any of them get up to leave out 24 of their office?</p> <p>25 A. No, other than Deanna.</p>	<p style="text-align: right;">Page 92</p> <p>1 A. Yes.</p> <p>2 Q. Did you see any of those 3 individuals attempt to leave toward -- to get 4 out?</p> <p>5 A. No.</p> <p>6 Q. Did you also see a supervisor by 7 the name of Huck Finn?</p> <p>8 A. Yes.</p> <p>9 Q. When did you see him?</p> <p>10 A. He was outside smoking.</p> <p>11 Q. And who was he smoking with?</p> <p>12 A. Deanna.</p> <p>13 Q. And this was at what time during 14 this May 26 event, did you see Huck Finn?</p> <p>15 A. It was after she called the Police 16 and I was sitting in the lobby, and he was 17 standing outside with Deanna smoking.</p> <p>18 Q. And at any time did you observe 19 Ms. Adams going -- after she said she called 20 the Police and you left to the lobby, after she 21 was in the lobby, did you ever see her go back 22 to her office?</p> <p>23 A. Yes.</p> <p>24 Q. Did you see her carrying anything?</p> <p>25 A. No.</p>

23 (Pages 89 to 92)

Page 93	Page 95
<p>1 Q. So the next time you'd have seen 2 Ms. Adams was outside smoking with Mr. Finn? 3 A. Yes. 4 MR. ROSENTHAL: Objection. 5 JUDGE GOLLIN: What's the 6 objection? 7 THE WITNESS: She's leading. 8 JUDGE GOLLIN: I'm going to 9 overrule the objection. It's been her line of 10 questioning throughout, and it's gone 11 unobjected to. You could argue whatever weight 12 you want. 13 Go ahead, Ms. Grubb. 14 Q. Now, at the time that you saw 15 Ms. Loveless the first time, she told you to 16 put the complaint in writing? 17 A. Uh-huh. 18 Q. There was a second time you saw 19 Ms. Loveless, correct? 20 A. Yes. 21 Q. Okay. And did you walk into 22 Ms. Loveless' office -- 23 A. Yes. 24 Q. -- to hand the handwritten 25 complaint that has been identified as a General</p>	<p>1 Q. Who did you show it to? 2 A. The first time I showed it to 3 Joanne, which would be -- that was in April. 4 The second time I showed it was to Tina. 5 JUDGE GOLLIN: When was that? 6 THE WITNESS: That was on the 26th. 7 Q. So you handed Tina Loveless two 8 pieces of paper that you considered to be filed 9 complaints then? 10 THE WITNESS: Yes. 11 MR. ROSENTHAL: She's taking the 12 leading a step further. 13 JUDGE GOLLIN: That's fine. 14 So you handed Tina two documents? 15 THE WITNESS: Yes. 16 JUDGE GOLLIN: Okay. Is the 17 objection that she characterized them as 18 complaints or that she characterized that he 19 handed two documents? 20 MR. ROSENTHAL: The objection was 21 to this being more of a leading nature. 22 JUDGE GOLLIN: All right. Well, 23 Ms. Grubb, if you can -- 24 MS. GRUBB: Thank you. 25 JUDGE GOLLIN: -- do more</p>
Page 94	Page 96
<p>1 Counsel's Exhibit? 2 A. Yes. 3 Q. Was there any other complaint on 4 the 26th that you tried to serve? 5 A. Yes. 6 Q. Okay. And what was that complaint? 7 A. It was a series of complaints that 8 I had filed against Rick Ackerson that I tried 9 to file with HR before, but they told me since 10 Christine wasn't there, that they're unable to 11 take any complaints because she handles that, 12 so wait until she gets back to file that, so I 13 filed that along with my initial complaint on 14 the 25th. 15 Q. So let me understand this. 16 So you hand-wrote Exhibit 2, that 17 we're having trouble reading, along with the 18 other three individuals? 19 A. Yes. 20 Q. But you had also come prepared to 21 provide them with another complaint? 22 A. Yes. 23 Q. And did you show that other 24 complaint to anyone? 25 A. Yes.</p>	<p>1 open-ended questions, that would be perfect. 2 Q. So the handwritten complaint you 3 did on the 26th right there in the training 4 room with the others, correct? 5 A. Correct. 6 Q. Did you at any time show the others 7 your other typed complaint? 8 A. No, because that was something of 9 my own. 10 Q. Did you try to show that complaint 11 to Ms. Adams? 12 A. No. It never came up. I was there 13 on my initial complaint, along with my other 14 coworkers. 15 Q. But Ms. Loveless was the one that 16 agreed to take in both your handwritten 17 complaint, as well as your typed complaint? 18 A. Yes. 19 Q. Did you write anything on the top 20 of the typed complaint? 21 A. She told me to write that it was my 22 second time trying to file it, so I wrote 23 "Second Attempt" on the top of my complaints 24 prior, not from the one that I filed on the 25 26th, yes.</p>

24 (Pages 93 to 96)

Page 97	Page 99
<p>1 Q. Mr. Ackerson, you said, was present 2 there, and he was in the hallway, correct? 3 A. Correct. 4 Q. Did he at any time move into 5 Deanna's office? 6 A. No. 7 Q. Did he at any time move into the 8 other HR offices? 9 A. No, ma'am. 10 Q. Now, you said you were in the 11 doorway of Ms. Adams' office, approximately two 12 feet into the doorway. 13 Where was Mr. Poff and Mr. Bauer 14 standing? 15 A. I'm, like I said, in front of the 16 doorway. Mr. Poff was like to my right. And 17 Mr. Bauer was to my left. (Indicating) 18 Q. Were they at any time seated? 19 A. I know John was standing. I'm not 20 sure if Chris was sitting or standing, but he 21 was there. 22 Q. And the desk that Ms. Adams was 23 sitting behind had two chairs in front of it? 24 A. Correct 25 Q. Then as far as positionally, is it</p>	<p>1 with anyone during the break. 2 Off the record. 3 ----- 4 (Recess taken.) 5 ----- 6 JUDGE GOLLIN: Let's go back on the 7 record. 8 Respondent, ready for 9 cross-examination? 10 MR. ROSENTHAL: Yes, your Honor. 11 ----- 12 CROSS-EXAMINATION 13 BY MR. ROSENTHAL: 14 Q. Mr. Cannon-El, I'm Dan Rosenthal. 15 I'm the Lawyer for Meyer Tool. 16 You recall Mr. Martin from your 17 deposition in your case, in your Court case, 18 correct? 19 A. Correct. 20 Q. On May 25, your supervisor, Rick 21 Ackerson, called a meeting with all the 22 nightshift employees to discuss a new go-to guy 23 for your area, Mark Metcalf, true? 24 A. Yes. 25 Q. And early in that meeting, in your</p>
Page 98	Page 100
<p>1 fair to say that there was two feet, two 2 chairs, the desk and then Ms. Adams during your 3 discussion with her? 4 A. Yes, that's accurate. 5 MS. GRUBB: I have nothing further. 6 JUDGE GOLLIN: All right. 7 Respondent? 8 MR. ROSENTHAL: May I see the 9 Witness' Affidavit or Affidavits, please? 10 JUDGE GOLLIN: Yes. 11 MS. MURAROVA: There are two. One 12 is four pages and a signature page. And the 13 other is about two and a half pages. 14 JUDGE GOLLIN: How much time do you 15 need to review that prior to cross-examining? 16 MR. ROSENTHAL: Your Honor, is ten 17 minutes okay? 18 JUDGE GOLLIN: Ten minutes is fine. 19 We're going to use that also for a break for 20 everyone else, so we'll come back at about five 21 minutes -- that's not even working. We'll come 22 back at 11. I'll give you 15 minutes so that 23 everyone has an opportunity to break. 24 Make sure that everyone is aware of 25 the sequestration, not discussing this case</p>	<p>1 words, John Poff stormed out of the meeting, 2 true? 3 A. Yes, yes. 4 Q. And Chris Bauer said that he would 5 not listen to Mark Metcalf, correct? 6 A. Correct. 7 Q. And Bauer later in the meeting 8 raised his hand and said, "I'm going back to 9 work," and he left at that point, true? 10 A. Yes. 11 Q. You've testified about Mr. McGuire 12 getting close to you, correct? 13 A. Correct. 14 Q. You asked him to back up, true? 15 A. Yes. 16 Q. And he backed up, true? 17 A. Yes. 18 Q. On the 26th, you came in to Meyer 19 to complain about how Mr. Ackerson and 20 Mr. McGuire treated you on the 25th, true? 21 A. That's part of it. 22 Q. And also the go-to issue, true? 23 A. Correct. 24 Q. You went to HR? 25 A. Yes.</p>

25 (Pages 97 to 100)

<p style="text-align: right;">Page 101</p> <p>1 Q. You testified that -- and I believe 2 this is a quote -- "Normally when I have a 3 complaint like this, I go to Joanne and 4 Christine Steele in HR." 5 Was that your testimony? 6 A. Correct. 7 Q. So you've raised complaints before 8 with HR, and in each of those cases they 9 treated you professionally, before the 26th, 10 true? 11 A. Correct. 12 Q. You testified HR is a narrow 13 hallway. 14 It has no windows, correct? 15 A. Correct. 16 Q. It has seven or eight offices on 17 each side, true? 18 A. Yes. 19 Q. You went to Tina Loveless' office? 20 A. Correct. 21 Q. You told Tina Loveless you had a 22 situation the night before, you wanted to put 23 it on record, that you wanted to file a 24 complaint, that's what you told her, correct? 25 A. Not in those words exactly, but</p>	<p style="text-align: right;">Page 103</p> <p>1 correct? 2 A. Correct. 3 Q. You didn't talk to them while you 4 were doing that, and you did not read their 5 statements, correct? 6 A. Correct. 7 Q. You finished yours, got up and left 8 the training room, right? 9 A. Right. 10 Q. You saw that Poff and Bauer had 11 entered Deanna's office, correct? 12 A. Correct. 13 Q. You entered her office and you 14 stood two to three feet within the doorway; am 15 I right? 16 A. Yes. 17 Q. As far as you knew, Adams did not 18 know you had written a statement at that point, 19 true? 20 A. Yeah, as far as I knew. Yes, she 21 had no idea. 22 Q. You weren't in her office 23 personally to try to eavesdrop or listen in 24 when Poff and Bauer were in there, so all you 25 heard was talking, true?</p>
<p style="text-align: right;">Page 102</p> <p>1 yes. 2 Q. That's accurate, in essence; isn't 3 it? 4 A. Yes. 5 Q. She was helpful for you, true? 6 A. Uh-huh. 7 Q. And you'll probably have to say yes 8 or no just for the benefit of the Court 9 Reporter. 10 A. Yes. 11 Q. And she treated you professionally, 12 correct? 13 A. She did her job professionally, 14 yes. 15 Q. Okay. Loveless gave you a piece of 16 paper to write out the complaint, true? 17 A. Yes. 18 Q. Then Poff and Bauer entered her 19 office, and she gave them paper, as well, true? 20 A. Yes. 21 Q. You went to the training room to 22 write your statements, true? 23 A. Yes. 24 Q. Bauer and Poff finished their 25 statements first, and left the training room,</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Yes. 2 Q. You listened to nothing in 3 particular that they said, true? 4 A. I wouldn't say I didn't listen to 5 them. I overheard what they -- the end of it, 6 but I didn't hear the beginning or middle. I 7 heard it as it was ending. 8 Q. You recall that Mr. Martin took 9 your deposition in your Court case, true? 10 A. Correct. 11 Q. You were under oath then, true? 12 A. Correct. 13 Q. You reviewed that deposition and 14 signed that deposition on March 17 of this 15 year, true? 16 A. Correct. 17 Q. And you made no corrections to that 18 deposition, true? 19 A. Correct. 20 MR. ROSENTHAL: Your Honor, may I 21 give the Witness a copy of the deposition? 22 JUDGE GOLLIN: Yes. Make sure 23 you're showing it to opposing Counsel, please. 24 MR. ROSENTHAL: I will. 25 Do you want a copy?</p>

26 (Pages 101 to 104)

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<p>1 JUDGE GOLLIN: It depends whether 2 I'm going to need to address issues as relates 3 to reviewing it. 4 MR. ROSENTHAL: I'll give it to 5 you. 6 Q. Would you turn to Page 238 of that 7 deposition? 8 Tell me when you're there. 9 A. All right. 10 Q. I'm looking at Line 19. The 11 question was, "Did you -- what is the 12 conversation, if you can recall, that was going 13 on before you started speaking?" 14 And you answered, "I wasn't 15 personally trying to eavesdrop or listen in, so 16 all I heard was talking. I listened to nothing 17 in particular." 18 Did I read that accurately? 19 A. You said Line 18? 20 Q. Yes. Starting with 19, through 24. 21 And your testimony starts at Line 22. 22 A. Yes. 23 Q. Did I read that accurately? 24 A. Yes. 25 Q. You went in to Adams' office to ask</p>	<p>1 A. Correct. 2 Q. You said no, true? 3 A. Yes. 4 Q. She said, "It's not a physical 5 assault unless he touched you," that's what she 6 said, true? 7 A. Correct. 8 Q. She said, according to you, "If he 9 didn't touch you, then that won't hold up in 10 Court?" 11 That's what you said she said, 12 correct? 13 A. How it went was, she said something 14 to John, and John said, "If he didn't touch 15 you, technically that's not physical assault." 16 And I said, "Okay. Then that's the 17 end of that." 18 Q. Can you look at Page 260 of your 19 deposition, please? 20 Tell me when you're there, please. 21 A. I'm there. 22 Q. At Line 10 you said, "No, but she 23 elaborated by telling me, 'If he didn't touch 24 you, then that won't hold up in Court.'" 25 Did I read that accurately?</p>
Page 106	Page 108
<p>1 her a question, true? 2 A. Yes. 3 Q. And you told her, "I've got a 4 question," and she said, "What's your 5 question," true? 6 A. Yes. 7 Q. And you said, "When your complaint 8 is against the Vice President, who will hold 9 him accountable," true? 10 A. Yes. 11 Q. You said in that conversation that 12 McGuire, in your words, physically assaulted 13 you, correct? 14 A. I meant verbally -- physically 15 threatening. In my initial complaint, 16 physically threatening. But at the time when I 17 was speaking to her, I said, "physical 18 assault." 19 Q. So when you first spoke to her, the 20 first thing you said about that was that 21 McGuire physically assaulted you, correct? 22 A. It wasn't the first thing I said, 23 but yes, I said that. 24 Q. Okay. And she asked if he 25 physically touched you, true?</p>	<p>1 A. Yes. Uh-huh. 2 Q. Adams said she was trying to tell 3 you the law, in essence, true? 4 A. Yes. 5 Q. And at that point you looked at 6 Poff and kind of smirked, true? 7 A. Correct. 8 Q. You said, "The law," correct? 9 A. Yes. 10 Q. And what you were thinking was, 11 "She must not be aware that I'm a student of 12 the law," that's what you were thinking? 13 A. It was a thought. It passed my 14 mind, yes. 15 Q. And you told her that in telling 16 you what the law is, she was operating outside 17 her field of work, true? 18 A. Yes. To the best of my knowledge, 19 she's not an Attorney or someone to give legal 20 advice. 21 Q. And your testimony was, you were 22 discrediting anything she had to say at that 23 point, true? 24 A. Not from that statement, but from 25 what I initially said, I thought his actions</p>

27 (Pages 105 to 108)

<p style="text-align: right;">Page 109</p> <p>1 were racially motivated. She told me to throw 2 that out, that has nothing to do with it. 3 That's when I started to discredit her. I 4 thought she's an HR rep and they're supposed to 5 take my complaint and let it go through the 6 process. 7 Q. And that was early in your 8 conversation with her? 9 A. Correct. 10 Q. And from that point you were, in 11 your words, discrediting anything she had to 12 say, correct? 13 A. I wouldn't necessarily say like in 14 actions, but yes, in validity, as far as her 15 speaking, I just took it for how she felt, 16 rather than it being something that's final. 17 She's entitled to feel however she wants, so I 18 don't have to accept how she felt. 19 Q. Was your testimony then at that 20 point, quote, "Now I'm discrediting anything 21 she has to say"? 22 Was that your testimony? 23 A. Yes. 24 Q. You told Adams that McGuire had 25 done something that was racially motivated?</p>	<p style="text-align: right;">Page 111</p> <p>1 to Poff, because he was to my right, what 2 happened. And that's when it goes into the 3 part where, "He didn't touch you," and, "It's 4 not physical assault," et cetera. 5 Q. Everybody else in your department 6 is white, correct? 7 A. Correct. 8 Q. She said she didn't consider that 9 racial, "Throw that out," that's your 10 testimony, true? 11 A. Yes. That was her statement, yes. 12 Q. You went back and forth some, true? 13 A. I wouldn't say went back and forth. 14 It's just she made her statements, and then I 15 continued to demonstrate on the initial 16 questions, and then she just made comments as I 17 was speaking. If you call that back and forth, 18 then yes. 19 Q. She said, "Whatever"? 20 A. Yes. 21 Q. And you smirked again, according to 22 your testimony, true? 23 A. Yes. 24 Q. Now, the issue of McGuire 25 physically assaulting you, threatening you,</p>
<p style="text-align: right;">Page 110</p> <p>1 A. Right. 2 Q. She asked you what that was, true? 3 A. Yes. 4 Q. You said, "He made the statement, 5 "You are just like everybody else," correct? 6 A. Correct. 7 Q. And Adams said she couldn't see how 8 that was a racial statement, that's what she 9 said to you? 10 A. No, not at that point she didn't 11 say that. She said, "That has nothing to do 12 with it, throw that out." 13 Q. She said, "That has nothing to do 14 with race"? 15 A. That was the first thing I said, I 16 said the complaint was against the Vice 17 President and his actions. 18 She said, "What's your complaint?" 19 It's the first thing I said, "His 20 actions was racially motivated." 21 She said, "It has nothing to do 22 with race. I'm going to throw that out." 23 I said, "He physically assaulted 24 me," I meant physically threatened me, but 25 getting in my personal space, and demonstrated</p>	<p style="text-align: right;">Page 112</p> <p>1 that issue related only to you, correct? 2 MS. MURAROVA: Objection. I think 3 what he's asking for is sort of -- it sounds 4 like he's asking about his motive for filing 5 the complaint, and his motive in engaging in 6 concerted protected activity is irrelevant 7 under Fresh and Easy. It's an objective 8 standard. You know, when people engage in 9 mutual aid and protection to make complaints 10 together for various reasons, whether he 11 thought it was racially motivated and only 12 impacted him or whether the coworkers he came 13 to complain with thought it affected all of 14 them because they all had to be there together, 15 the answer to that is irrelevant. 16 MR. ROSENTHAL: Judge -- 17 JUDGE GOLLIN: Go ahead. 18 MR. ROSENTHAL: -- that wasn't what 19 I asked. The point he was making about McGuire 20 physically assaulting or threatening him, that 21 related only to him. 22 JUDGE GOLLIN: Well, okay, your 23 complaint was with regards to what happened to 24 you the night before? 25 THE WITNESS: It was regarding the</p>

28 (Pages 109 to 112)

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<p>1 whole go-to guy and how it created a confusion 2 within our area. In my opinion, it's called 3 stirring the pot, where you turn each other 4 against each other, because you're bringing an 5 outside person in to baby-sit the other, and 6 that kind of stirred the pot between us, and it 7 created a hostile work environment. 8 Plus how I was singled out, because 9 he came after me. 10 Considering we were in a group 11 discussion, why did you single me out? 12 JUDGE GOLLIN: So with regard to 13 Mr. McGuire and his statements and conduct, 14 your view was that was directed just to you, 15 his statements and the conduct that followed 16 the meeting? 17 THE WITNESS: Correct. 18 JUDGE GOLLIN: Is that what you're 19 asking? 20 MR. ROSENTHAL: Yes. 21 Q. In Adams' office, you didn't 22 discuss anyone other than yourself, true? 23 A. I wasn't provided the opportunity, 24 so no. 25 Q. Right?</p>	<p>1 six feet. 2 JUDGE GOLLIN: Wall to wall. Okay. 3 THE WITNESS: Probably longer. 4 Like the hall outside, like four to six feet. 5 JUDGE GOLLIN: That's fine. That's 6 fine. 7 THE WITNESS: These are 8 estimations. 9 Q. In your meeting with Adams, you 10 never complained to her about the go-to stuff, 11 true? 12 A. Yes, because I filed the complaint. 13 I didn't know why I had to elaborate on why I 14 was there, et cetera. 15 Q. So I'm correct, you did not raise 16 that in your meeting with her? 17 A. No. 18 Q. Yes? 19 A. No, I never raised it. 20 Q. Thank you. 21 And I'm not sure, did you say you 22 were still in her doorway or not? 23 A. I wasn't in her doorway, but her 24 door was open, you could see me. But I wasn't 25 in her door at that point. I was in the</p>
Page 114	Page 116
<p>1 A. Yes, I only talked about myself. 2 Q. Bear with me one second. 3 Adams asked you to leave her 4 office, true? 5 A. Yes. 6 Q. You say you backed into the 7 hallway? 8 A. Yes, out of her office. 9 Q. And the hallway you described was 10 narrow, correct? 11 A. Correct. 12 Q. But you were still in her doorway, 13 true? 14 A. Because I asked her could I still 15 file my complaint. 16 Q. I asked you if you were still in 17 her doorway. 18 A. I wasn't in her doorway. I was in 19 the hallway. But she could still see me 20 because her door was open. 21 JUDGE GOLLIN: If you had to 22 estimate how far in width the hallway was, how 23 far would you estimate was the width of the 24 hallway? 25 THE WITNESS: I would say four to</p>	<p>1 hallway. 2 Q. Can you look, please, at Page 262 3 of your deposition? 4 A. (Witness complies with request.) 5 Q. And I'm referring to Line 19. 6 Mr. Martin asked you, "You were two or three 7 feet in the hallway, still in her doorway," 8 and your answer was, "Yes, in visible sight of 9 me, where she could still see me, yes." 10 Did I read that correctly? 11 A. Yes. 12 Q. She asked you to leave the 13 premises, she said, because you were being 14 aggressive. 15 I understand you disagree with 16 that, but that's what she said to you? 17 A. Correct. 18 Q. And you did not leave the premises 19 then, did you? 20 A. No, because I -- I didn't get to 21 finish why I initially came. 22 Q. You did not leave the premises, 23 then, correct? 24 A. And also -- 25 JUDGE GOLLIN: It's a yes or no</p>

29 (Pages 113 to 116)

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<p>1 question.</p> <p>2 A. Yes. Sorry.</p> <p>3 Q. You didn't leave the hallway at</p> <p>4 that point, true?</p> <p>5 A. True.</p> <p>6 Q. After she asked you to leave</p> <p>7 several times and you stayed, she said, "I'm</p> <p>8 going to count to three, and you need to leave</p> <p>9 the premises," she told you that, true?</p> <p>10 A. Yes.</p> <p>11 Q. She said she's going to have to</p> <p>12 call the Police if you don't leave at that</p> <p>13 point, true?</p> <p>14 A. Correct.</p> <p>15 Q. And she said, "One," and you don't</p> <p>16 deny finishing her count saying, "Two, three"?</p> <p>17 You don't recall that, do you?</p> <p>18 A. I don't recall that.</p> <p>19 Q. You don't recall and you don't</p> <p>20 deny, true?</p> <p>21 A. Because I can't --</p> <p>22 Q. Correct?</p> <p>23 A. I can't deny what I don't remember.</p> <p>24 I'm just an honest person. I don't recall.</p> <p>25 Q. Now, you say you didn't leave the</p>	<p>1 A. I just wanted her there for my</p> <p>2 safety really, to witness what happens if</p> <p>3 anything happens to me. I need someone there</p> <p>4 for me.</p> <p>5 Q. So you asked her to come and be</p> <p>6 your witness, true?</p> <p>7 A. Yes.</p> <p>8 Q. Did you tell your sister, "I'm not</p> <p>9 leaving until the Cops come, I want it on</p> <p>10 record that the Police had to escort me out"?</p> <p>11 Did you tell your sister that?</p> <p>12 A. No.</p> <p>13 Q. Are you sure about that?</p> <p>14 A. Yes.</p> <p>15 Q. You were asked to leave the</p> <p>16 building and you didn't leave the building,</p> <p>17 true?</p> <p>18 A. Yes.</p> <p>19 Q. You didn't leave until just before</p> <p>20 the Police arrived on the scene, true?</p> <p>21 A. Yes.</p> <p>22 Q. You could have left and waited</p> <p>23 somewhere else, that was your testimony, true?</p> <p>24 A. No. They asked me could I have</p> <p>25 left and waited somewhere else.</p>
Page 118	Page 120
<p>1 premises because you wanted to file your</p> <p>2 complaint, true?</p> <p>3 A. Correct.</p> <p>4 Q. At that point you went over to Tina</p> <p>5 Loveless' office, true?</p> <p>6 A. Yes.</p> <p>7 Q. And you filed your complaint and</p> <p>8 she gave you a copy, true?</p> <p>9 A. Correct.</p> <p>10 Q. And then you went back into the</p> <p>11 hallway, took out your phone and called your</p> <p>12 sister, true?</p> <p>13 A. Correct.</p> <p>14 Q. That's that narrow hallway outside</p> <p>15 Adams' office, true?</p> <p>16 A. Correct.</p> <p>17 Q. You pick up your cell phone and you</p> <p>18 call your sister, who is the lady in the</p> <p>19 hearing room today?</p> <p>20 A. Yes.</p> <p>21 Q. You told your sister that the</p> <p>22 Police were called, true?</p> <p>23 A. Yes.</p> <p>24 Q. You told her to come to Meyer and</p> <p>25 be your witness, true?</p>	<p>1 Q. And your answer was yes, true?</p> <p>2 A. Yes, uh-huh.</p> <p>3 Q. You stayed in the HR hallway</p> <p>4 talking to your sister on the phone for</p> <p>5 multiple minutes, true?</p> <p>6 A. No. It wasn't that long. It was</p> <p>7 just a brief conversation. I proceeded into</p> <p>8 the lobby. If you say multiple minutes, yeah,</p> <p>9 it could be one, two or three, yes.</p> <p>10 Q. Now, when you're told to leave a</p> <p>11 building and you don't -- you said that you're</p> <p>12 a student of law -- do you understand that</p> <p>13 that's trespass under state and local law?</p> <p>14 MS. MURAROVA: Objection.</p> <p>15 Relevance.</p> <p>16 MR. ROSENTHAL: I think Van is</p> <p>17 still -- even though it's 1939, it's still the</p> <p>18 law. I'm entitled to know whether he knew he</p> <p>19 was engaged in trespassing.</p> <p>20 JUDGE GOLLIN: I'm going to</p> <p>21 overrule the question.</p> <p>22 THE WITNESS: Yes, but I don't know</p> <p>23 the context of how it fits.</p> <p>24 JUDGE GOLLIN: No, that's my job.</p> <p>25 Do you understand what's being</p>

30 (Pages 117 to 120)

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<p>1 asked of you and you responding to it?</p> <p>2 THE WITNESS: Yes.</p> <p>3 JUDGE GOLLIN: Ask the question.</p> <p>4 Q. Did you understand that remaining</p> <p>5 on the premises when you have been told to</p> <p>6 leave was trespass under state and local law?</p> <p>7 Did you understand that?</p> <p>8 A. Yes.</p> <p>9 Q. The Police Officers arrived at some</p> <p>10 point, true?</p> <p>11 A. Yes.</p> <p>12 Q. General Counsel referred to this</p> <p>13 document, and then withdrew identifying it.</p> <p>14 And I didn't mark this, so it's got a</p> <p>15 Plaintiff's Exhibit, but I'm going to mark it</p> <p>16 as a Respondent's Exhibit.</p> <p>17 JUDGE GOLLIN: It's going to be</p> <p>18 marked as what?</p> <p>19 MR. ROSENTHAL: "1."</p> <p>20 -----</p> <p>21 (Thereupon, Respondent Exhibit 1,</p> <p>22 was marked for purposes of</p> <p>23 identification.)</p> <p>24 -----</p> <p>25 JUDGE GOLLIN: Make sure before you</p>	<p>1 going to have an objection. I just learned of</p> <p>2 this second, slightly different call for</p> <p>3 service.</p> <p>4 JUDGE GOLLIN: What's the purpose</p> <p>5 of you wanting to introduce this?</p> <p>6 MS. MURAROVA: The caveat is I see</p> <p>7 there's a section that says "Disorderly</p> <p>8 employee arguing with staff and refusing to</p> <p>9 leave." I assume that's not for the truth of</p> <p>10 the matter asserted.</p> <p>11 JUDGE GOLLIN: I'm asking, why are</p> <p>12 you introducing this document?</p> <p>13 MR. ROSENTHAL: Judge, I'm offering</p> <p>14 this Exhibit because it shows that the Police</p> <p>15 received a call from Meyer at 1716, and that</p> <p>16 they arrived on the scene at 1730, showing that</p> <p>17 14 minutes passed between the call for service</p> <p>18 and the arrival of the Police. That's the</p> <p>19 reason for it.</p> <p>20 JUDGE GOLLIN: Is that disputed,</p> <p>21 General Counsel?</p> <p>22 MS. MURAROVA: No.</p> <p>23 JUDGE GOLLIN: Charging Party?</p> <p>24 MS. GRUBB: I apologize, your</p> <p>25 Honor. There's an extra page on this other</p>
Page 122	Page 124
<p>1 move for the introduction that it's properly</p> <p>2 marked.</p> <p>3 MS. GRUBB: I'd request just a</p> <p>4 comparison because we have two -- three</p> <p>5 different versions of this Police Report going</p> <p>6 around, so I guess I'm trying to clarify, is</p> <p>7 this the first responder?</p> <p>8 This is the first responder one?</p> <p>9 MR. ROSENTHAL: Your Honor, this</p> <p>10 was attached -- well, first of all, the Witness</p> <p>11 said he did obtain a copy of the report. This</p> <p>12 is, I'll represent, the report that was</p> <p>13 attached to his Federal Court Complaint. If</p> <p>14 she wants to take a little bit to look at it,</p> <p>15 that's fine.</p> <p>16 MS. GRUBB: If I may, just to</p> <p>17 compare it to the other Police Report.</p> <p>18 JUDGE GOLLIN: Sure.</p> <p>19 Are you going to be moving for the</p> <p>20 introduction of this document, assuming it</p> <p>21 comports with the document that was produced?</p> <p>22 MR. ROSENTHAL: I am, your Honor.</p> <p>23 JUDGE GOLLIN: What's going to be</p> <p>24 your position on that?</p> <p>25 MS. MURAROVA: I don't think we're</p>	<p>1 report. There were three Police cruisers, is</p> <p>2 my understanding -- excuse me, two, and they</p> <p>3 have different time arrivals, that's why I'm</p> <p>4 trying to understand which time he's referring</p> <p>5 to. I apologize.</p> <p>6 MR. ROSENTHAL: Judge, this is all</p> <p>7 we have. This was attached to the Federal</p> <p>8 Court Complaint.</p> <p>9 JUDGE GOLLIN: I'm going to ask the</p> <p>10 Witness, who was a witness to the incident, and</p> <p>11 between -- well, you don't know when the call</p> <p>12 to the Police was made.</p> <p>13 Do you recall or believe that the</p> <p>14 Police arrived about 5:30 that day?</p> <p>15 Am I doing -- yes, 5:30.</p> <p>16 THE WITNESS: I don't recall,</p> <p>17 because I remember me leaving around like</p> <p>18 5:20-something, because when I left, that's</p> <p>19 when I got a text message from my coworker, and</p> <p>20 that was at 5:20.</p> <p>21 JUDGE GOLLIN: So there were two</p> <p>22 Police cruisers that arrived?</p> <p>23 THE WITNESS: Yes.</p> <p>24 JUDGE GOLLIN: And they arrived at</p> <p>25 the same time?</p>

31 (Pages 121 to 124)

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<p>1 THE WITNESS: Yes, one came and the 2 other one came shortly thereafter. 3 JUDGE GOLLIN: Within seconds? 4 THE WITNESS: Yes. 5 JUDGE GOLLIN: There were only two 6 that came? 7 THE WITNESS: Yes. 8 JUDGE GOLLIN: Are you able to 9 stipulate that the Police came at 5:30? 10 MS. GRUBB: That's fine, your 11 Honor. 12 MR. ROSENTHAL: Judge, we can, but 13 we offer this -- under the rules, this was a 14 record of regularly-conducted activity by the 15 Police Department. We offer it both for that 16 fact and the fact that the call that they 17 received was made 14 minutes before that. 18 We're not offering it for the truth of the 19 matter of the other assertions in it. But we 20 are offering it for the truth of the matter of 21 the 14 minutes that elapsed from the call to 22 the arrival of the Police. 23 JUDGE GOLLIN: Is there any 24 objection from the Charging Party or General 25 Counsel for the purposes of introducing this</p>	<p>1 Q. And in your words, quote, I 2 reserved my right to remain silent, end quote, 3 true? 4 A. Yes. 5 Q. The Police told you the company 6 wanted you to leave, and you then left, 7 correct? 8 A. Yes. 9 Q. You understood that you were not 10 fired at that point, that you were suspended 11 pending investigation, true? 12 A. I didn't know any of that, no. 13 Q. As the facts developed, you came to 14 know that, true? 15 A. Repeat the question. 16 Q. You testified that when the Police 17 arrived, Deanna said to them and to you that 18 you were not fired at that point? 19 A. Yes. 20 Q. Okay. You talked to Tina Loveless, 21 who told you that Meyer Tool was trying to set 22 up an investigation, true? 23 A. I talked to Nikki Fugate and Tina 24 Loveless on the phone, yes. 25 Q. And they told you that?</p>
Page 126	Page 128
<p>1 document to establish when the call was made 2 and when the Police arrived? 3 MS. MURAROVA: Not from the General 4 Counsel. 5 MS. GRUBB: (Nodding.) 6 JUDGE GOLLIN: So for that purpose, 7 you're offering this, and that limited purpose 8 only? 9 MR. ROSENTHAL: For that limited 10 purpose only. 11 JUDGE GOLLIN: So I'll receive 12 Respondent's Exhibit 1. 13 ----- 14 (Thereupon, Respondent Exhibit 1 was 15 received into evidence.) 16 ----- 17 Q. The Police Officers arrived and you 18 asked them for their badge numbers, right? 19 A. Correct. 20 Q. One of the Officers tried to engage 21 you in conversation, correct? 22 A. Right. 23 Q. He asked you your side of the 24 story, true? 25 A. Yes.</p>	<p>1 A. Yes, they informed me about the 2 investigation. 3 Q. There was an Investigation 4 Committee of three people? 5 A. Yes. 6 JUDGE GOLLIN: Were you told this 7 on the phone call with Tina and Ms. Fugate? 8 THE WITNESS: Yes. 9 JUDGE GOLLIN: Okay. 10 Q. There was an Investigation 11 Committee of three people, correct? 12 A. Yes. 13 Q. The committee interviewed you at 14 Meyer Tool, true? 15 A. Yes. 16 Q. And it was your testimony that you 17 believe the three individuals on the committee 18 could make an impartial decision in your case? 19 That was your testimony, true? 20 A. Yes. 21 Q. And in that committee process, 22 there was no question that you felt you should 23 have been asked that you weren't asked during 24 the committee interview process, true? 25 A. Say that again.</p>

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<p>1 Q. There was no question that you felt 2 the committee should have asked you during that 3 process that they did not ask you in that 4 process, true? 5 A. I would say yes, yes. 6 Q. You testified about a statement you 7 claimed that Ms. Adams made that if you had let 8 this go, none of this would have happened, or 9 words to that effect, true? 10 A. Yes. 11 Q. I'm showing you the Affidavit you 12 gave the Labor Board on October 7, 2016. And 13 I'm going to ask you if you'll just take a few 14 minutes and read through that. 15 My question to you is, nowhere in 16 that Affidavit does that statement appear? 17 But I'll ask you to read the 18 Affidavit and confirm if I'm right. 19 A. (Witness complies with request.) 20 Yes, yes, I'm done. 21 Q. That claim is not in that 22 Affidavit, is it? 23 A. No. 24 Q. And you never told Mr. Martin about 25 that supposed statement in your deposition, did</p>	<p>1 January of 2016 because, according to your 2 second Affidavit, "The Board Agent had 3 requested that I return to clarify a few 4 matters," that's what you said. 5 A. Yes. 6 Q. And you did mention that statement 7 when, months after your first Affidavit, the 8 Board Agent called you back, true? 9 A. Yes, uh-huh. 10 JUDGE GOLLIN: Did you say January 11 of 2016? 12 MR. ROSENTHAL: I said that because 13 he signed it that day, and I'm realizing that 14 that was a typo, that it was January of 2017. 15 JUDGE GOLLIN: Okay. 16 MR. ROSENTHAL: You want me to 17 clarify that on the record? 18 JUDGE GOLLIN: Did you provide a 19 second Affidavit to the board in January of 20 this year? 21 THE WITNESS: Yes. 22 JUDGE GOLLIN: Because all of these 23 incidents happened in May and June of 2016, so 24 all these Affidavits were after the fact. 25 THE WITNESS: Yes.</p>
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<p>1 you? 2 A. I don't think he asked the question 3 or mentioned it. I think I mentioned it, but I 4 don't think he asked a question to bring it to 5 the surface. 6 But I signed two of these before. 7 Q. And we'll get to the next one. 8 But in your deposition, you never 9 mentioned that claim, did you? 10 A. I'd have to read through it. I 11 don't recall my initial statements because 12 there was a lot made that day, so I don't 13 recall if I made it, put it on record or not. 14 Q. You reviewed that deposition 15 recently and signed it, true? 16 A. Yes. 17 Q. And you cannot, as we sit here 18 today, say that you testified about that 19 happening, true? 20 A. I'd have to read it. 21 Q. You can't recall it as we sit here 22 today? 23 A. No, I can't recall it. But the 24 statement was made. 25 Q. Now, you were called back in</p>	<p>1 JUDGE GOLLIN: So the first 2 Affidavit -- 3 MR. ROSENTHAL: The first 4 Affidavit, which was a four-page Affidavit, was 5 provided October 7, 2016. 6 JUDGE GOLLIN: And the second one 7 was provided? 8 MR. ROSENTHAL: It was provided 9 January 9, 2017. 10 JUDGE GOLLIN: Does that comport 11 with your memory with regards to the dates you 12 provided these Affidavits? 13 THE WITNESS: I'm not sure of the 14 dates, but a time period elapsed and then they 15 called me in for another one. 16 JUDGE GOLLIN: You provided another 17 one in October of 2016, and then you came back 18 earlier this year, in January, and provided the 19 second Affidavit? 20 THE WITNESS: Right. 21 JUDGE GOLLIN: I need the record to 22 be clear with regard to that. 23 MR. ROSENTHAL: I'm sorry about 24 that. 25 Q. In 2013, you complained about your</p>

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<p>1 manager at the time, Huck Finn, true?</p> <p>2 A. Yes.</p> <p>3 Q. You talked to Gordy McGuire about</p> <p>4 that, true?</p> <p>5 A. Yes.</p> <p>6 Q. You told Gordy that Huck was</p> <p>7 sending you home early and not giving raises</p> <p>8 that you felt you deserved, true?</p> <p>9 A. True.</p> <p>10 Q. After raising that issue, you were</p> <p>11 given a new supervisor, true?</p> <p>12 A. I was moved to a new area, yeah.</p> <p>13 Q. Under Jerry Jackson?</p> <p>14 A. Yes.</p> <p>15 Q. And you received a big raise under</p> <p>16 Mr. Jackson, true?</p> <p>17 A. I wouldn't say a big raise, but I</p> <p>18 received a raise.</p> <p>19 Q. And you certainly received no</p> <p>20 discipline for complaining about Mr. Finn,</p> <p>21 correct?</p> <p>22 A. I was moved. You moved me to a</p> <p>23 different area, rather than reprimand the</p> <p>24 person I complained about. You just decided to</p> <p>25 move me.</p>	<p>1 comment allegedly made by Ms. Adams.</p> <p>2 It's my understanding that General</p> <p>3 Counsel is attempting to introduce this in</p> <p>4 response to the attack of the credibility of</p> <p>5 the Respondent. You understand the rules of</p> <p>6 evidence, she's permitted to rehabilitate the</p> <p>7 Witness to the extent the credibility has been</p> <p>8 attacked, impugned, et cetera.</p> <p>9 For that purpose, I have indicated</p> <p>10 that I will allow General Counsel to present</p> <p>11 evidence on redirect on that.</p> <p>12 And the second aspect of the</p> <p>13 question or issue is, how exactly that evidence</p> <p>14 will be introduced in this hearing and how</p> <p>15 copies of it will be made available. To that</p> <p>16 extent, I'm going to allow the parties to take</p> <p>17 a very short amount of time to talk with each</p> <p>18 other about how that can best be done. So I'm</p> <p>19 going to allow the parties an opportunity to do</p> <p>20 that.</p> <p>21 Before I allow them to go off the</p> <p>22 record to allow them time, does anyone believe</p> <p>23 that I misrepresented our off the record</p> <p>24 discussions?</p> <p>25 MS. MURAROVA: No, your Honor.</p>
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<p>1 Q. You complained about the treatment</p> <p>2 you were receiving by Huck Finn, the company</p> <p>3 moved you, you were given a new supervisor and</p> <p>4 you received a raise, true?</p> <p>5 A. Yes.</p> <p>6 MR. ROSENTHAL: Let me just look at</p> <p>7 my notes real quick, your Honor.</p> <p>8 Your Honor, that's all the</p> <p>9 questions I have. Thank you.</p> <p>10 JUDGE GOLLIN: Would you like your</p> <p>11 deposition back?</p> <p>12 MR. ROSENTHAL: Sure.</p> <p>13 MS. MURAROVA: Your Honor, could we</p> <p>14 go off the record for a moment?</p> <p>15 (Discussion had off record.)</p> <p>16 JUDGE GOLLIN: From my</p> <p>17 understanding, and I'll allow the parties to</p> <p>18 correct me if I'm wrong, off the record we had</p> <p>19 a discussion concerning the ability to present</p> <p>20 through this Witness a recording which my</p> <p>21 understanding is that he made of the</p> <p>22 interaction once the Police arrived at Meyer</p> <p>23 Tool on the 26th for the purposes of responding</p> <p>24 to a contention that he did not previously</p> <p>25 incorporate as part of other statements the</p>	<p>1 MR. ROSENTHAL: No, your Honor.</p> <p>2 JUDGE GOLLIN: So we'll go off the</p> <p>3 record and allow you to discuss and figure out</p> <p>4 a way that this will work.</p> <p>5 (Discussion had off record.)</p> <p>6 JUDGE GOLLIN: All right. We had</p> <p>7 another off the record discussion as it relates</p> <p>8 to the evidence and the methodology for</p> <p>9 presenting it.</p> <p>10 I believe that I may have had said</p> <p>11 this before we went off the record, my</p> <p>12 preference is if there's anything to be</p> <p>13 evidence introduced regarding a recording, that</p> <p>14 it be done -- either a copy of the recording on</p> <p>15 a thumb drive or some equivalent, as opposed to</p> <p>16 playing the recording and then asking the Court</p> <p>17 Reporter to transcribe what it said on the</p> <p>18 recording.</p> <p>19 The understanding that I have is</p> <p>20 that at this point in time, the General Counsel</p> <p>21 is going to reserve playing the recording and</p> <p>22 distributing the thumb drive or other method of</p> <p>23 evidence, and will evaluate it at a later</p> <p>24 point.</p> <p>25 Is that correct, General Counsel?</p>

34 (Pages 133 to 136)

<p style="text-align: right;">Page 137</p> <p>1 MS. MURAROVA: Yes, your Honor. 2 JUDGE GOLLIN: Respondent, is that 3 your understanding of what we discussed? 4 MR. MARTIN: Yes. 5 JUDGE GOLLIN: So, General Counsel, 6 do you have redirect examination of the 7 Witness? 8 MS. MURAROVA: Yes, your Honor. 9 10 REDIRECT EXAMINATION 11 BY MS. MURAROVA: 12 Q. Mr. Cannon-El, you testified about 13 the events of May 26 and where you were when 14 you were in Ms. Deanna's office, and the fact 15 that you went into her office after you wrote 16 your complaint, right? 17 A. Yes. 18 Q. Where was your complaint at the 19 time that you were in Ms. Deanna's office? 20 A. In my hands. 21 Q. And you said that everyone in your 22 department is white. 23 What race are you, Mr. Cannon-El? 24 A. At that period of time my race was 25 black, African-American.</p>	<p style="text-align: right;">Page 139</p> <p>1 A. Correct. 2 Q. Are there any other black employees 3 that work at Meyer Tool? 4 A. Yes. 5 Q. There was some discussion about 6 what you did and didn't tell Ms. Adams. 7 Do you feel like you were able to 8 address all of the concerns you had with her 9 before being asked to leave? 10 A. Not really because, like I said, 11 sometimes as I was speaking, she was saying, 12 "Whatever, whatever," like literally waving me 13 off, and that is why I digressed and added her 14 to my complaint. 15 Q. When you added her to complaint, 16 did her demeanor remain the same or different? 17 A. Everything changed at that point. 18 It went from professional to hostile. 19 Q. Okay. And then you testified a 20 little about being right outside the doorway 21 after Ms. Adams asked you to leave her 22 office -- 23 A. Uh-huh. 24 Q. -- do you remember that? 25 And when you were out of her</p>
<p style="text-align: right;">Page 138</p> <p>1 Q. Okay. Do you consider yourself a 2 different race now? 3 A. I went through a process, and my 4 race is Asiatic. 5 Q. Can you explain a little more what 6 that is and why it has changed? 7 A. Well, you know, "black" is an 8 adjective, it's not describing of race and it's 9 not -- it's actually a status, you know. And I 10 went through a school called Moor School of Law 11 and History that teaches the class as black, 12 negro, colored, American, teaches them about 13 their history prior to slavery and who they 14 are, and I also went through a process of 15 proclaiming that status as far as being Asiatic 16 or Moorish-American. So I went through that 17 process and had my status corrected. 18 Q. And now you said your status is 19 Asiatic? 20 A. Asiatic. 21 Q. Or the other term you used -- 22 A. My nationality is Moorish-American. 23 Q. And you testified that in your 24 department, everyone besides yourself is white; 25 is that correct?</p>	<p style="text-align: right;">Page 140</p> <p>1 office, what did Ms. Adams do at that time? 2 A. She -- as I asked her -- I'm still 3 in like -- I'm in the hallway, but she can see 4 me, and I said, "Can I still file my 5 complaint?" 6 And she said, "No. You need to 7 leave the premises." She's getting up from 8 behind her desk and approaching me, coming into 9 the hallway. 10 Q. After you submitted your complaint 11 to Ms. Tina Loveless, did anyone from Meyer 12 ever call you to address your complaint about 13 the events of May 25? 14 A. No. To the best my knowledge, they 15 didn't do nothing about it. I don't know if 16 anybody was reprimanded or anything. I don't 17 even know the status of it because I was 18 terminated. 19 Q. Then you testified a little bit 20 about trespass. 21 Have you ever attended law school? 22 A. No. Not by an institution, no. 23 Q. So you were asked about your 24 Affidavits that you gave to the board. 25 And you agreed that in your first</p>

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<p>1 Affidavit, you didn't mention that comment; is 2 that correct? 3 A. Correct. 4 Q. And in your second Affidavit, did 5 you mention that that was said? 6 A. Yes. 7 Can I state that -- because I had 8 told them that everything is not clear right 9 now, and he said, If you come up with anything 10 that you recall, you can" -- "you're more than 11 welcome to come in and we can amend the 12 Affidavit and correct it." And I guess that's 13 when they called me back. 14 Q. Okay. Then you testified that 15 there was some questions about what you said or 16 didn't say at your deposition. 17 Do you remember being asked if -- 18 were you asked if Deanna said something to you 19 in the hallway? 20 A. No, they didn't ask me that. 21 Q. Did you deny that she said anything 22 to you in the hallway? 23 A. No. 24 Q. Do you know why you received a 25 raise in 2013?</p>	<p>1 questions. 2 But, Mr. Cannon-El, your Attorney 3 may have some questions. 4 MS. GRUBB: Just two or three. 5 ----- 6 BY MS. GRUBB: 7 Q. You said you had your statement in 8 your hand at the time that you were talking 9 with Ms. Adams, correct? 10 A. Yes. 11 Q. Do you recall where the statements 12 were of Mr. Poff and Mr. Bauer? 13 A. To the best of my knowledge, they 14 had them in their hands, as well. 15 Q. Now, in the past did you have to 16 put your complaints in writing every time for 17 Ms. Steele or Ms. Loveless? 18 A. Yes. 19 Q. And that was a policy carried out 20 by HR? 21 A. Yes. 22 Q. And you testified earlier that 23 Christine Steele and Joanne Poff handled things 24 very professionally when you had a complaint. 25 A. Yes.</p>
Page 142	Page 144
<p>1 A. Because Jerry Jackson at the time, 2 when he called me in his office, the new 3 supervisor, he told me, "It's clear that Huck 4 was underpaying you, I'm going to catch you up 5 with everyone else on the shop floor so you 6 won't be so far behind like you are." 7 And I was like, "Okay." 8 MR. ROSENTHAL: Excuse me, I was 9 looking elsewhere. My colleague says that 10 there was just hearsay testimony. 11 JUDGE GOLLIN: Who is the 12 individual that said this, Mr. -- 13 THE WITNESS: Jerry Jackson, the 14 new supervisor. 15 JUDGE GOLLIN: So was he a 16 supervisor at the time that he made the 17 statement? 18 THE WITNESS: Yes. 19 JUDGE GOLLIN: Do you dispute that 20 it was he supervisor at the time that he made 21 the statement? 22 MR. ROSENTHAL: I withdraw the 23 objection. 24 JUDGE GOLLIN: Go ahead. 25 MS. MURAROVA: I have no further</p>	<p>1 Q. Did they ever say, "Whatever"? 2 A. No. 3 Q. Were they ever dismissive? 4 A. No. 5 Q. Did they ever educate you on the 6 law? 7 A. No. 8 Q. Were you at all aware that 9 Ms. Adams was a Lawyer or a student of the law? 10 A. No. 11 Q. Now, you testified earlier to their 12 cross-examination that you never raised the 13 go-to guy in the meeting. 14 To your understanding, your 15 statement talked about the go-to guy? 16 A. Yes, it mentioned it. 17 Q. So to your knowledge, did 18 Mr. Poff's and Mr. Bauer's statement talk about 19 the go-to guy? 20 A. Yes, to the best of my knowledge. 21 Yes. 22 Q. Let's go back to the day before. 23 After the meeting happened, you had 24 a discussion with them about what happened in 25 the meeting, correct?</p>

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1 A. Yes.
 2 JUDGE GOLLIN: Let's make sure the
 3 record is clear.
 4 You're talking about a conversation
 5 that he had with Mr. Bauer and Mr. Poff
 6 following the meeting --
 7 MS. GRUBB: The meeting on the
 8 25th.
 9 JUDGE GOLLIN: So now you're going
 10 to ask him about that.
 11 Go ahead.
 12 Q. At the time, were there any other
 13 men with you when you were discussing about
 14 going to HR the next day?
 15 A. No.
 16 Q. So did the three of you write
 17 statements or did you know that you were going
 18 to have to write them in HR?
 19 MR. ROSENTHAL: I'm going to object
 20 to the extent this is calling for what Poff and
 21 Bauer understood.
 22 JUDGE GOLLIN: I'll sustain it.
 23 Did you have a discussion about how
 24 you were going to proceed when you met with
 25 Mr. Poff and Mr. Bauer?

1 plan, do you have any belief that they were
 2 talking to her about the go-to guy and the
 3 incident on May 25?
 4 MR. ROSENTHAL: Objection.
 5 JUDGE GOLLIN: I'm going to sustain
 6 it.
 7 A. Yes.
 8 JUDGE GOLLIN: No, the answer is
 9 stricken.
 10 MS. GRUBB: That was my fault. It
 11 was an awkward question.
 12 Q. To your knowledge, did Ms. Adams
 13 ever ask you what your complaint was about?
 14 A. She just asked what my question
 15 was, she didn't go to my complaint, because I
 16 asked a question, and she said, "What's your
 17 question?"
 18 That's the only thing she asked me
 19 about.
 20 Q. So she never asked you specifically
 21 what you were complaining about?
 22 A. No.
 23 Q. Now, you testified that you felt
 24 that the committee would make an impartial
 25 decision.

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1 THE WITNESS: We was going to file
 2 complaints.
 3 JUDGE GOLLIN: So your conversation
 4 with them is that you were going to file a
 5 complaint?
 6 THE WITNESS: Yes. And we all
 7 agreed to come in on the 26th, yes.
 8 Q. Is there any reason, when you went
 9 to HR the next day, that you wrote them
 10 individually, and not together?
 11 A. Because we all had different point
 12 of views on how it happened. We all was in
 13 different situations, John, when he spoke, then
 14 Chris when he spoke, then me when I spoke, but
 15 it was all regarding the same claim or the same
 16 announcement that Rick made.
 17 Q. Okay. And you testified that you
 18 didn't hear part of the conversation, you came
 19 in -- because you were a little slower and you
 20 came into the conversation a little later with
 21 Ms. Adams?
 22 A. On May 26?
 23 Q. May 26.
 24 A. I came in last, yes.
 25 Q. So having developed your action

1 Did they tell you that they would
 2 be -- strike that.
 3 Were you told what incident they
 4 were reviewing?
 5 A. No.
 6 Q. So did they tell you anything about
 7 what they were reviewing?
 8 A. They just said it's a factfinding
 9 of what happened on the 26th, just a
 10 factfinding of the incident on the 26th.
 11 Q. So they never told you it was
 12 factfinding about May 25, as well?
 13 A. They just said "factfinding." They
 14 didn't go into details as to what. They said
 15 they were factfinding the investigation of what
 16 happened.
 17 Q. Now, were you told who would be
 18 sitting on this committee?
 19 A. No.
 20 Q. So you had no idea that it would be
 21 people who either reported to senior management
 22 or senior management, right?
 23 MR. ROSENTHAL: Objection. That
 24 assumes a fact not in evidence.
 25 JUDGE GOLLIN: You understood who

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<p>1 the people were that were going to be involved 2 in the factfinding, correct? 3 THE WITNESS: I didn't understand 4 like why they were chosen. 5 JUDGE GOLLIN: You knew who they 6 were? 7 THE WITNESS: Uh-huh. 8 JUDGE GOLLIN: Do you know what 9 their positions were? 10 THE WITNESS: Not until that time, 11 yes. 12 JUDGE GOLLIN: Well, when you found 13 out who they were, did you know who they were 14 as far as in the company when someone 15 identified who the people were who were going 16 to be part of the investigation? 17 THE WITNESS: I only knew Nikki 18 Fugate because she had a training course that I 19 was an attendee to. 20 JUDGE GOLLIN: That was at the 21 meeting when they took your statement? 22 THE WITNESS: Yes. 23 JUDGE GOLLIN: So at that point you 24 knew their names and their positions? 25 THE WITNESS: Yes.</p>	<p>1 THE WITNESS: No. 2 JUDGE GOLLIN: So then why are we 3 asking questions about Weingarten? 4 MS. GRUBB: Your Honor, it's my 5 understanding that an employee who is about to 6 be disciplined, even if it's a non-Union 7 facility, may bring in another individual as a 8 Witness. 9 JUDGE GOLLIN: My understanding 10 with the IBM case is that the board has gone 11 the other way and said it's not permitted. 12 Even if I'm wrong, there's not a complaint 13 allegation as relates to a Weingart violation. 14 Q. Mr. Cannon-El, why did you believe 15 that it would be an impartial decision by this 16 committee? 17 A. Because -- 18 MR. ROSENTHAL: Objection. 19 JUDGE GOLLIN: What's the 20 objection? 21 You asked the question if he 22 thought it was impartial. 23 MR. ROSENTHAL: You're right. 24 JUDGE GOLLIN: All right. Go 25 ahead.</p>
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<p>1 JUDGE GOLLIN: Okay. 2 Q. And at that meeting they didn't 3 have any recording, correct? 4 JUDGE GOLLIN: You have to be clear 5 about what meeting you're talking about. 6 MS. GRUBB: I'm sorry. The 7 Investigative Committee that you were just 8 speaking about. 9 Q. You said they took notes, correct? 10 A. Yes. 11 Q. Did they have any other recording 12 device, to your knowledge? 13 A. No, he said it wasn't allowed. 14 Q. Did you ask for Counsel? 15 A. Yes. 16 Q. Did they allow you to have Counsel? 17 A. No. 18 Q. Did they allow you to have a fellow 19 employee? 20 A. No. 21 Q. Were you led to believe that this 22 investigation could possibly lead to your 23 termination? 24 JUDGE GOLLIN: Is this a unionized 25 facility?</p>	<p>1 A. Can you repeat the question? 2 Q. Why did you believe that this would 3 be an impartial decision? 4 A. Because when I asked, "Can I have 5 somebody in attendance for my interest in this 6 whole situation," they told me no. 7 When I asked them if I could record 8 it for my own credibility, if they said 9 something I didn't say, they said no. 10 When I arrived, there was -- I 11 didn't feel that I had someone there for my 12 interest because, "Everybody here works for 13 Meyer and their interest is with Meyer," and 14 they wouldn't -- I think they would side with 15 them, rather than me, because who am I? 16 I wanted someone present so that 17 the statements I made couldn't be construed to 18 mean something else. 19 Q. Then why did you testify you 20 believed that they could render an impartial 21 decision? 22 Did you understand what the word 23 "impartial" was? 24 A. It's unfair, impartial, fair. 25 JUDGE GOLLIN: So when you were</p>

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1 asked whether someone would render an impartial
 2 opinion, you understood the word to mean what?
 3 THE WITNESS: That they couldn't
 4 make any form of a statement that was unbiased,
 5 so to speak, that was fair.
 6 JUDGE GOLLIN: You thought that
 7 they could not do that?
 8 THE WITNESS: Could they make a
 9 fair judgment.
 10 JUDGE GOLLIN: I'm sorry. A lot of
 11 negatives in this.
 12 Did you understand that "impartial"
 13 meant that they could not provide a fair,
 14 impartial decision?
 15 "Impartial" is the wrong word
 16 again.
 17 A fair, objective decision?
 18 That's what you thought "impartial"
 19 meant?
 20 THE WITNESS: Yes, that they
 21 couldn't come to it.
 22 They couldn't come to it, to make
 23 an impartial statement, did I agree?
 24 JUDGE GOLLIN: I'm going to let
 25 you, using your own words, explain what you

1 sworn deposition, correct?
 2 A. Yes.
 3 Q. And the question was, "And,
 4 Mr. Cannon-El, do you believe that a committee
 5 of three Caucasian members can issue an
 6 impartial decision in your case?"
 7 Did I read that correctly?
 8 A. Yes.
 9 Q. And you understood that "impartial"
 10 meant fair, correct?
 11 JUDGE GOLLIN: No. Okay. You're
 12 reading him the words. You read him the words,
 13 and your response was -- did you ask him if he
 14 understood the word in the deposition?
 15 MR. ROSENTHAL: No. In the
 16 deposition, he said, "In my case?"
 17 And the question was, "Yes."
 18 And he said, "Yes."
 19 Q. Do you understand that "impartial"
 20 means the same as fair?
 21 A. Yes. But in that context, I
 22 misunderstood. I would have said no because
 23 they clearly --
 24 MS. GRUBB: I'm going to object
 25 because that's not the same question. He's

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1 understood "impartial" to mean when you
 2 responded to questions under cross-examination.
 3 THE WITNESS: I believed it to mean
 4 could Meyer make a decision that's fair,
 5 unbiased, could them three make an unbiased
 6 judgment on what happened. I don't know that
 7 they could, that's why I wanted someone fair.
 8 JUDGE GOLLIN: Okay. All right.
 9 MS. GRUBB: I have nothing further.
 10 JUDGE GOLLIN: All right. Recross?
 11 MR. ROSENTHAL: Judge, just to be
 12 brief, is it okay if I approach the Witness?
 13 JUDGE GOLLIN: Sure. If you're
 14 showing him something, make sure you show it to
 15 Counsel.
 16 MR. ROSENTHAL: I'm showing the
 17 Witness Page 302 of the deposition, starting
 18 from the top.
 19 - - - - -
 20 RE-CROSS-EXAMINATION
 21 BY MR. ROSENTHAL:
 22 Q. I apologize for standing over your
 23 shoulder. I thought this was easier than
 24 pulling out a bunch of Exhibits.
 25 We're looking at Page 302 of your

1 interjected the word "Caucasian." The
 2 question --
 3 JUDGE GOLLIN: Is the question in
 4 the deposition Caucasian?
 5 I don't have it in front of me.
 6 MR. ROSENTHAL: Yes.
 7 JUDGE GOLLIN: He's reading the
 8 deposition and he's asking him.
 9 What was the question?
 10 Q. My question was, do you know that
 11 "impartial" means fair?
 12 And he said yes, he does understand
 13 that.
 14 And then I don't understand where
 15 he's gone with the deposition.
 16 MS. GRUBB: Your Honor, his
 17 question initially to the Witness today was,
 18 "Do you think there could be three impartial
 19 decision makers, they would be impartial?"
 20 He didn't add the word "Caucasian."
 21 He's now trying to impeach him using testimony
 22 that adds an additional fact, which was
 23 Caucasian, which was not here earlier this
 24 morning.
 25 JUDGE GOLLIN: That's a factually

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<p style="text-align: right;">Page 157</p> <p>1 accurate statement. When you asked the 2 question in cross-examination, the word 3 "Caucasian" was not included. Now when you're 4 going through the deposition, the deposition 5 question has the word "Caucasian" in it. This 6 issue is the Witness' understanding of the word 7 "impartial" and its meaning. 8 Q. And you said it meant fair, 9 correct? 10 A. I understood. But in the context 11 of when you asked me that, I misunderstood 12 that, so it would have been no. 13 Q. But you said instead "Yes"? 14 A. Yes. 15 Q. And you reviewed the deposition and 16 you signed it as accurate, correct? 17 A. Still based on my understanding of 18 what it meant, yes. Now that you broke it into 19 a certain context, I was misunderstood on the 20 word. 21 MR. ROSENTHAL: Well, I think we've 22 beaten that horse adequately. 23 Q. I think that Joanne and Christine 24 are the people in HR -- excuse me, you 25 understand that Christine in HR is the person</p>	<p style="text-align: right;">Page 159</p> <p>1 AFTERNOON SESSION 2 ----- 3 (Whereupon, CHRISTOPHER BAUER was called 4 as a Witness by and on behalf of the General 5 Counsel and, after having been duly sworn, was 6 examined and testified as follows:) 7 JUDGE GOLLIN: State and spell your 8 name for the record. 9 THE WITNESS: My name is 10 Christopher Bauer, C-h-r-i-s-t-o-p-h-e-r, 11 Bauer, B-a-u-e-r. 12 JUDGE GOLLIN: All right. Go 13 ahead. 14 DIRECT EXAMINATION 15 BY MS. MURAROVA: 16 Q. Mr. Bauer, are you here pursuant to 17 a Subpoena today? 18 A. Yes, ma'am. 19 Q. Did you participate in an NLRB 20 investigation as relates to Mr. Cannon-El's 21 discharge? 22 A. Yes, ma'am. 23 Q. Was that pursuant to a Subpoena? 24 A. Yes. 25 Q. Where are you employed?</p>
<p style="text-align: right;">Page 158</p> <p>1 to whom complaints are supposed to be directed, 2 with whom they're supposed to be filed, you 3 understand that, true? 4 A. I thought all HR reps could take 5 complaints. 6 MR. ROSENTHAL: Okay. I don't have 7 any more questions. 8 JUDGE GOLLIN: Redirect based on 9 those limited areas? 10 MS. MURAROVA: No. 11 MS. GRUBB: No. 12 JUDGE GOLLIN: All right. The 13 Witness is excused. Thank you. 14 General Counsel, do you want to 15 either retrieve the documents before your next 16 Witness or have them flipped over? 17 However you want to handle that. 18 MR. ROSENTHAL: Your Honor, I 19 believe that Respondent's I is already admitted 20 for the narrow purpose of timing. 21 JUDGE GOLLIN: Can we go off the 22 record? 23 ----- 24 (Luncheon Recess Taken.) 25 -----</p>	<p style="text-align: right;">Page 160</p> <p>1 A. Meyer Tool. 2 Q. And how long have you been employed 3 there? 4 A. Approximately two and a half years. 5 Q. What do you do there? 6 A. I am an EDM operator. 7 Q. What department do you work in? 8 A. 425 or NPI, Developmental. 9 Q. What does NPI stand for? 10 A. It's New Product Introduction or 11 Integration, I believe. 12 Q. And as a machinist or operator, 13 what does your job entail? 14 A. Essentially processing turbine 15 engine parts with machines essentially. 16 Q. And you said you worked in the 17 Developmental Department. 18 In May, 2016 -- 19 A. Yes, ma'am. 20 Q. -- is that the same department you 21 were working in? 22 A. Yes, ma'am. 23 Q. Was that full-time or -- do you 24 work full-time or part-time? 25 A. That's full-time.</p>

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<p>1 Q. That was the same in May, 2016?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. What shift do you work?</p> <p>4 A. Second shift.</p> <p>5 Q. What hours?</p> <p>6 A. It's five P to four A.</p> <p>7 Q. And was that the same in May, 2016?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Who is your direct supervisor?</p> <p>10 A. It would be Rick Ackerson.</p> <p>11 Q. And was that the same in May, 2016?</p> <p>12 A. Yes, ma'am.</p> <p>13 Q. Are you familiar with who</p> <p>14 Mr. William Cannon-El is?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. Did he work the same shift as you</p> <p>17 in May, 2016?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. Are you familiar with Mr. John</p> <p>20 Poff?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Did he work the same shift as you</p> <p>23 in May of 2016?</p> <p>24 A. Yes, ma'am.</p> <p>25 Q. In the same department?</p>	<p>1 Mr. Cannon-El, Glenn Young, Steven Korb. I'm</p> <p>2 not 100 percent sure, but I believe Burt was</p> <p>3 there, too. I'm not sure. Mr. Mark Metcalf</p> <p>4 was there.</p> <p>5 Q. Besides Mr. Ackerson, are the other</p> <p>6 people that you named employees, supervisors?</p> <p>7 A. We're all same tier people, as far</p> <p>8 as I'm concerned.</p> <p>9 Q. Same tier as yourself?</p> <p>10 A. Yes, yes, yes, yes. None of us was</p> <p>11 supervisors, with the exception of Rick</p> <p>12 Ackerson.</p> <p>13 Q. How did the meeting start?</p> <p>14 A. Rick was, "Hey, this is you guys'</p> <p>15 go-to guy. You pretty much no longer will have</p> <p>16 to report to Huck Finn, this is going to be the</p> <p>17 guy to report to if you have any issues or</p> <p>18 problems."</p> <p>19 JUDGE GOLLIN: He was referring to</p> <p>20 Mr. Metcalf?</p> <p>21 THE WITNESS: Yes, yes. I'm sorry.</p> <p>22 Yes, sir.</p> <p>23 Q. Was it explained to you if the</p> <p>24 go-to guy was a supervisor position?</p> <p>25 A. Not really. I mean, it was</p>
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<p>1 A. Yes.</p> <p>2 Q. Did Will Cannon-El work in the same</p> <p>3 department as you?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. I'd like to direct you to May 25,</p> <p>6 2016 of last year.</p> <p>7 Did you work that day?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Did you attend any meetings that</p> <p>10 day?</p> <p>11 A. Yes.</p> <p>12 Q. How did you find out about the</p> <p>13 meeting?</p> <p>14 A. Rick Ackerson said, "We're going to</p> <p>15 have a meeting in the break room to introduce</p> <p>16 our new go-to guy."</p> <p>17 Q. Is that where it ended up being,</p> <p>18 the break room?</p> <p>19 A. Yes.</p> <p>20 Q. When did that making take place?</p> <p>21 A. Approximately five, 5:30.</p> <p>22 Q. P.m.?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. And who all was at that meeting?</p> <p>25 A. Myself, Rick Ackerson, John Poff,</p>	<p>1 basically he was going to be our superior.</p> <p>2 And I was concerned -- we were all</p> <p>3 kind of concerned that that was kind of a</p> <p>4 made-up title, "go-to guy." We didn't -- never</p> <p>5 really heard of a quote, unquote, go-to guy.</p> <p>6 Q. Can you tell me more about what</p> <p>7 your concern was?</p> <p>8 A. He just wasn't qualified. He</p> <p>9 claimed that he had been there for 30 years, or</p> <p>10 Ackerson claimed that he had been there 30</p> <p>11 years, but 30 years doesn't mean you're quality</p> <p>12 anything. There's people that have been doing</p> <p>13 jobs for 20, 30 years that aren't good at what</p> <p>14 they do. So 30 years didn't qualify you, in my</p> <p>15 opinion, to be a supervisor, especially a</p> <p>16 supervisor of myself, which he had no prior</p> <p>17 experience in the EDM, so it didn't make any</p> <p>18 sense to have him as my boss specifically.</p> <p>19 Q. Mr. Ackerson announced that there</p> <p>20 is a go-to guy, and you had some concerns.</p> <p>21 What happens then?</p> <p>22 Did you voice those concerns?</p> <p>23 A. Me and Mr. Cannon-El and Mr. Poff</p> <p>24 all kind of were concerned that there were</p> <p>25 better candidates to become, quote, unquote,</p>

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<p style="text-align: right;">Page 165</p> <p>1 go-to guys.</p> <p>2 JUDGE GOLLIN: I'm going to</p> <p>3 interrupt you real quick and I'm going to ask</p> <p>4 you, when you go through this, go through what</p> <p>5 you said, what someone else said, not</p> <p>6 characterizing.</p> <p>7 THE WITNESS: That's fine. I'm</p> <p>8 sorry.</p> <p>9 JUDGE GOLLIN: No, no, it's normal,</p> <p>10 people have conversations, but it's not how</p> <p>11 people can testify, so it's important that you</p> <p>12 go through specifically who said what and go</p> <p>13 from there, as best as you can.</p> <p>14 Q. You said that Mr. Cannon-El and</p> <p>15 Mr. Poff had concerns?</p> <p>16 A. Yes.</p> <p>17 Q. Do you remember what Mr. Cannon-El</p> <p>18 voiced?</p> <p>19 A. That he just wasn't qualified to be</p> <p>20 our supervisor.</p> <p>21 Q. Do you remember if Rick Ackerson</p> <p>22 responded to that?</p> <p>23 A. He wasn't happy about it. That's</p> <p>24 when he said, "He is a 30-year man," and that's</p> <p>25 what qualified him to be our supervisor.</p>	<p style="text-align: right;">Page 167</p> <p>1 for us to get outside every once in a while,</p> <p>2 even if you get frustrated, without any</p> <p>3 negative repercussions.</p> <p>4 JUDGE GOLLIN: That was discussed</p> <p>5 during this meeting?</p> <p>6 THE WITNESS: Yes, yes.</p> <p>7 Q. Do you know how you got to the</p> <p>8 subject of air quality?</p> <p>9 A. Not specifically, no.</p> <p>10 Q. But is that a concern that you had?</p> <p>11 A. A little bit, yeah. There's</p> <p>12 certain days and certain times with certain</p> <p>13 machines that sometimes the air quality is, in</p> <p>14 my opinion, lesser than other days.</p> <p>15 I mean, is it always an issue?</p> <p>16 No. But there are certain days it</p> <p>17 would be nice -- and again, just even out of</p> <p>18 frustration, because there's a lot of, in my</p> <p>19 opinion, mental stress, so it would be nice to</p> <p>20 sometimes walk away and clear your mind a</p> <p>21 little bit, because I know I've been guilty of</p> <p>22 that, just like walked out to breathe.</p> <p>23 Q. Do you remember what any of the</p> <p>24 other questions were about?</p> <p>25 A. Not specifically.</p>
<p style="text-align: right;">Page 166</p> <p>1 Q. What, if any, questions did you</p> <p>2 specifically ask?</p> <p>3 A. Specifically I just was trying to</p> <p>4 ask what 30 years meant, like what -- what</p> <p>5 makes that just to be a boss.</p> <p>6 Q. And did Rick Ackerson respond, or</p> <p>7 what happened after that?</p> <p>8 Q. He kept getting angrier and angrier</p> <p>9 by us asking questions.</p> <p>10 Q. You said that Mr. Poff also raised</p> <p>11 some concerns?</p> <p>12 A. Yes.</p> <p>13 Q. What did Mr. Poff say?</p> <p>14 A. It was the same thing that, that he</p> <p>15 just wasn't qualified to be our boss, that</p> <p>16 there were other candidates better.</p> <p>17 Q. Were any other questions asked at</p> <p>18 the meeting?</p> <p>19 A. Not that I can specifically think</p> <p>20 of.</p> <p>21 Q. Okay.</p> <p>22 A. I mean, other than like air quality</p> <p>23 and stuff like that, that there's smokers that</p> <p>24 are able to go outside and smoke, but me and</p> <p>25 Mr. Cannon-El are nonsmokers, but it's not okay</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. Do you remember any questions about</p> <p>2 Huck Finn?</p> <p>3 A. Yes, yes.</p> <p>4 Q. Who is Huck Finn?</p> <p>5 A. As far as I am, he's the supreme</p> <p>6 ruler of nightshift. He is the highest up</p> <p>7 in -- he's the plant manager, essentially, from</p> <p>8 what I understand. He was introduced as the</p> <p>9 plant manager via Gordy McGuire when Mr. Huck</p> <p>10 Finn came to nightshift.</p> <p>11 Q. Okay. And you said there was a</p> <p>12 question about him?</p> <p>13 A. Yeah, there was a gentleman -- I</p> <p>14 mean, there's like 100 people, give or take --</p> <p>15 50 or 100 people, and two or three people</p> <p>16 trying to announce this, and there was a</p> <p>17 gentleman in the back --</p> <p>18 Q. Are you talking about the May 25</p> <p>19 meeting?</p> <p>20 A. No. I'm sorry. The Gordy McGuire</p> <p>21 meeting.</p> <p>22 Q. When did the Gordy McGuire meeting</p> <p>23 happen?</p> <p>24 A. When Huck Finn was introduced. I'm</p> <p>25 not sure of the actual dates.</p>

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1 Q. Do you remember how long before the
2 May 25 meeting?
3 A. Months maybe, within six months.
4 I'm not sure.
5 Q. At the May 25 meeting, what if any
6 questions were there about Huck?
7 A. Basically we asked where does Huck
8 fall in if Mark Metcalf is our go-to guy?
9 It was basically insinuated that we
10 don't need to deal with Huck Finn anymore, we
11 have Mark Metcalf, and that's our supreme
12 ruler.
13 Q. Who was that insinuated by?
14 A. Mr. Ackerson.
15 Q. Do you remember any more
16 specifically what he said that insinuated that?
17 A. Not specifics. I'm sorry.
18 Q. And so after that discussion about
19 Huck Finn, did Mr. Ackerson respond to those
20 questions or what happened?
21 A. He basically told us if we didn't
22 like it, that the door was an option, was
23 essentially -- in my opinion, was offering our
24 job, "If you don't like it, you can leave,
25 quit."

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1 Q. What was Mr. Ackerson's demeanor at
2 the time?
3 A. He was getting upset, more and more
4 and more upset as we continued to ask
5 questions.
6 Q. What makes you say he was upset?
7 A. His tone got louder and louder and
8 louder.
9 Q. So he said, "There's the door," and
10 then what happened?
11 A. To the point where it was
12 borderline unprofessional. Like I said, I
13 questioned, "What is a supervisor" -- or, "How
14 is a supervisor allowed to react to us?"
15 I know that we're all humans and we
16 have emotions, but I would think somebody
17 higher up should know how to maintain
18 themselves.
19 Q. So you said it led you to ask how
20 was a supervisor allowed to treat you?
21 A. Yes.
22 JUDGE GOLLIN: You actually asked
23 this?
24 THE WITNESS: Yes.
25 Q. Was it at that meeting or later?

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1 A. The question that I asked, that was
2 with our Meyer Tool committee, our committee of
3 Meyer Tool employees, Paul Rowland and Nikki
4 Fugate. I'm sorry.
5 Q. We'll get into the committee.
6 A. I'm sorry.
7 Q. We'll get into the committee issue.
8 A. Okay.
9 Q. But he said, "There's the door,"
10 and you said -- how did you feel about
11 Mr. Ackerson's actions that day?
12 A. I thought it was out of line.
13 Johnnie ended up leaving because he actually
14 was one that took the option of out the door.
15 Q. When you say, "Johnnie," who are
16 you talking about?
17 A. John Poff. He left. I think he
18 went to go talk to Ms. Deanna.
19 Q. What happened after John left?
20 A. The situation didn't get any
21 better. Rick kept getting a little more upset.
22 At some point I asked if I could go back to my
23 area. He told me no. After a few more
24 minutes, I presume, I went back to my area
25 after he told me I couldn't go back to my area,

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1 because I provide a service for Meyer Tool.
2 I didn't want to be around when
3 Gordy McGuire got there.
4 Q. Okay. You said you didn't want to
5 be there when Gordy McGuire got there?
6 A. No.
7 Q. Why did you think Gordy McGuire
8 would be getting there?
9 A. I've seen him --
10 Q. Let me back up.
11 How did you know Gordy McGuire was
12 coming?
13 A. Rick had called him.
14 Q. While you were still in the room?
15 A. Yes, yes.
16 Q. How do you know that he was calling
17 Gordy McGuire?
18 A. Him specifically saying, "Gordy."
19 We knew who he was talking to.
20 Q. Do you remember what Rick Ackerson
21 was saying to Gordy McGuire on the phone?
22 A. Basically he was trying to tell him
23 the things that we were saying without actually
24 saying why we were saying it. He was basically
25 talking him up without giving us any kind of

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<p>1 opportunity to defend ourselves, which, I mean, 2 anybody is going to get upset if all you hear 3 is negative, negative, negative. 4 Q. And what happened at the end of 5 that conversation or what led you to believe 6 that Gordy McGuire was going to be coming? 7 A. Because he said he was coming. 8 Q. Rick Ackerson said that? 9 A. Yes. 10 Q. I'm going to back up to something 11 that you mentioned before, and that was the air 12 quality. 13 Do you recall who first raised the 14 air quality issue? 15 A. Mr. Cannon. 16 Q. Is that a concern that you share? 17 A. Yes. I believe it's worse than 18 others some days. It is a concern of mine 19 sometimes. 20 Q. You mentioned that you wanted to 21 leave when you found out Mr. McGuire was 22 coming. 23 You wanted to leave because you 24 didn't want to be there? 25 A. Yes.</p>	<p>1 about five or ten minutes, but by then the 2 meeting already broke up and Gordy and Rick 3 Ackerson were conversing, so at that point I 4 go, "Okay, I guess I dodged a bullet on that 5 one." 6 Q. Okay. Who was the person you spoke 7 with, your head day shift guy? 8 A. Josh Reicker. 9 Q. And what did you tell Josh Reicker? 10 How did that conversation start? 11 A. I kind of explained the situation 12 and I told him that Rick had called and was 13 talking to Gordy basically and he was pretty 14 fired up on the phone. 15 And he was like, "If you're going 16 back, do this, but you probably shouldn't go 17 back." 18 Q. That day did anyone give you a 19 write-up, a discipline or any kind of warning 20 about what happened in the meeting -- 21 A. Not at all. 22 Q. -- or about leaving the meeting? 23 A. Not at all, no. There was no 24 repercussions. 25 Q. Did you have a talking to by Rick</p>
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<p>1 Q. What makes you say that? 2 A. Again, I've seen him treat people 3 poorly just by asking questions. During the 4 Huck Finn introduction, there was a gentleman 5 who said that he couldn't hear what Gordy was 6 saying, and you would have thought this guy had 7 called him a dirty name, the way he treated 8 him, just yelled at him, belittled him, tried 9 to get him to come into the middle of our 10 meeting to belittle him a little more. I 11 didn't like it. I didn't like it at all. 12 I don't deal well with people 13 yelling at me or treating me like a piece of 14 crap, so I just don't -- 15 Q. So you said then you left? 16 A. Yes. 17 Q. And where did you go? 18 A. I went over to my area and I was 19 talking to my day shift lead guy. And my day 20 shift lead guy actually recommended that I walk 21 back into the meeting with a recorder because 22 he knows -- he also knows that Gordy is 23 notorious to go off the handle a little bit. 24 Q. Did you walk back? 25 A. No. I started to head back after</p>	<p>1 Ackerson that day? 2 A. No. At least not that I recall. 3 Q. The part of the meeting that you 4 were at on May 25, what was Mr. Cannon's 5 demeanor like? 6 A. Calm. I mean, he's never really 7 that fiery of a person, in my opinion. I mean, 8 he's a pretty calm and collected dude. 9 Q. And you may have already answered 10 this, but what was Rick Ackerson's demeanor? 11 A. He was upset. He was very upset. 12 Q. After the meeting did you discuss 13 what happened at the meeting with anyone else? 14 A. I mean, we kind of talked as a 15 group and realized that we thought some bad 16 things happened and that we were going to file 17 a complaint. 18 Q. You said, "we." 19 Who were you referring to? 20 A. Myself, John Poff and 21 Mr. Cannon-El. 22 Q. And specifically can you tell me 23 more about this conversation and what your 24 concerns were? 25 A. Well, we all had a little bit of</p>

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<p style="text-align: right;">Page 177</p> <p>1 different ideas, but it was all essentially 2 over the same event. I just didn't agree with 3 Mr. Mark Metcalf being my boss. I know 4 Mr. Cannon-El believed that he was assaulted. 5 I know Johnnie kind of felt the same way about 6 Mr. Metcalf. I know William felt the same way 7 about Mr. Metcalf. We just were unhappy. We 8 didn't like how it went down. 9 Q. And so did you decide on anything? 10 A. We discussed and we decided we'd 11 come in the next day early and go and file a 12 complaint with HR. 13 Q. Did you decide what time you would 14 be arriving? 15 A. We would try to get there about a 16 half hour, 15 minutes early so we could go talk 17 to the proper outlet. 18 Q. And did you arrive the next day, as 19 you had discussed? 20 A. Yes. We were there maybe 4:30, 21 4:45, give or take. 22 Q. Where did you go when you arrived? 23 A. Into the HR hallway and we spoke 24 with Tina Loveless first. 25 Q. So when you arrived to the HR</p>	<p style="text-align: right;">Page 179</p> <p>1 Finn, he's the boss. 2 Q. Okay. When you went into Deanna's 3 office, was anyone else in her office besides 4 her? 5 A. No, just myself first and her. 6 Q. What did you do with your statement 7 that you had written? 8 A. I may have given her it at that 9 time, but I'm not entirely sure. At some point 10 she did receive it, but I don't remember if I 11 handed it to her straight off the bat or if we 12 discussed it and then I was able to give it to 13 her. 14 Q. Certainly you gave it to her that 15 day? 16 A. Yes, yes. 17 Q. I'm going to show you what I'm 18 marking as General Counsel's Exhibit 6. 19 ----- 20 (Thereupon, General Counsel 21 Exhibit 6, was marked for purposes 22 of identification.) 23 ----- 24 Q. Mr. Bauer, do you recognize this 25 document?</p>
<p style="text-align: right;">Page 178</p> <p>1 hallway, you said you spoke with Tina Loveless. 2 Where were you when this 3 conversation was happening? 4 A. Inside of her office. We walked 5 inside of her office. 6 Q. When you say, "We" -- 7 A. Me, John Poff and Will. 8 Q. When you got to her office, was 9 there anyone else there besides the four of 10 you? 11 A. I don't think so. 12 Q. How did the conversation start? 13 A. She said, "Hey, here's some paper, 14 go down to the computer room, write down your 15 complaints and bring it back to us." 16 Q. What did you do? 17 A. I filed mine. I was the first one 18 done. So I left. 19 I found Ms. Deanna first and 20 started talking to Deanna about the previous 21 day and what had happened, solutions for 22 myself, what I could do. We came up with a 23 solution pretty quick. She told me if I didn't 24 trust Mr. Mark Metcalf and his decision making, 25 always resort to Mr. Huck Finn, because Huck</p>	<p style="text-align: right;">Page 180</p> <p>1 A. Yes, ma'am. 2 Q. What is it? 3 A. This is a document out of my diary, 4 I believe. No, this is a Meyer Tool one. This 5 is the Meyer Tool one. This is the one I gave 6 to Ms. Deanna, I believe. 7 Q. So is this -- 8 A. Yes. 9 Q. -- the same thing that you were 10 writing that day? 11 A. That's me, yes. 12 Q. And that's your signature at the 13 end? 14 A. Yes, ma'am. Yes, ma'am. That's 15 also my employee number, as well. (Indicating) 16 MS. MURAROVA: At this time I'd 17 like to move for the admission of General 18 Counsel 6. 19 JUDGE GOLLIN: Any objection? 20 MR. MARTIN: No objection. 21 JUDGE GOLLIN: General Counsel 22 Exhibit 6 is received. 23 ----- 24 (Thereupon, General Counsel 25 Exhibit 6 was received into</p>

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<p>1 evidence.)</p> <p>2 -----</p> <p>3 Q. So you said you went to Deanna's</p> <p>4 office and you were talking about your issues.</p> <p>5 At any point did anyone join you?</p> <p>6 A. John and Will were right behind me</p> <p>7 within five minutes, give or take.</p> <p>8 Q. Do you remember who joined you</p> <p>9 first or did they come together?</p> <p>10 A. I believe it was John and then</p> <p>11 Will.</p> <p>12 Q. When you were talking to Deanna,</p> <p>13 did you -- scratch that.</p> <p>14 When Mr. John Poff and Mr. Will</p> <p>15 Cannon-El came in, what was happening in the</p> <p>16 conversation with Deanna Adams at the time that</p> <p>17 they joined you?</p> <p>18 A. Eventually it kind of focused on</p> <p>19 John and Will because, like I said, by then I</p> <p>20 was pretty much done asking my questions, for</p> <p>21 the most part done asking my questions.</p> <p>22 Will was expressing that he thought</p> <p>23 there was some legal concerns of the assault.</p> <p>24 Q. What assault are you referring to?</p> <p>25 A. Between him and Gordy McGuire from</p>	<p>1 Q. Was the door open or closed?</p> <p>2 A. I believe it was open.</p> <p>3 Q. Was it open the whole time?</p> <p>4 A. Yes, I believe it was.</p> <p>5 Q. So you said that Mr. Cannon-El was</p> <p>6 raising some legal concerns about the potential</p> <p>7 assault the previous day.</p> <p>8 A. Yes, yes, yes.</p> <p>9 Q. Do you remember more specifically</p> <p>10 what he was saying?</p> <p>11 A. Just that he felt like Gordy</p> <p>12 McGuire assaulted him, whether it was actually</p> <p>13 physically or just gotten too close to his</p> <p>14 space or whatnot or something similar to that.</p> <p>15 I believe Deanna was basically</p> <p>16 saying, "I don't think you have anything to</p> <p>17 stand on that. I don't think there's anything</p> <p>18 illegal that he did."</p> <p>19 They just kind of went back and</p> <p>20 forth a little bit. I kind of felt like they</p> <p>21 had gotten to a pass, where you could have</p> <p>22 gotten a Republican and a Democrat and I think</p> <p>23 they would have argued similarly at that point.</p> <p>24 I feel like they got to a pass.</p> <p>25 And then at some point Deanna was</p>
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<p>1 the previous day.</p> <p>2 Q. And do you remember what, if any,</p> <p>3 role John had in the conversation?</p> <p>4 A. Not specifically. I mean, again</p> <p>5 just expressing general concerns, I thought.</p> <p>6 Q. About what?</p> <p>7 A. Again, Mr. Metcalf and just the</p> <p>8 previous day in general.</p> <p>9 Q. When the three of you were in</p> <p>10 Deanna's office, can you describe to me where</p> <p>11 within the office everyone in the room was?</p> <p>12 A. I kind of walked in, and there's</p> <p>13 two chairs a desk, and then Ms. Deanna was</p> <p>14 sitting on the other side. Myself and I</p> <p>15 believe John was sitting in a chair. And I'm</p> <p>16 not entirely sure, but I believe there wasn't a</p> <p>17 chair for Will, so I believe he was standing</p> <p>18 behind us.</p> <p>19 Q. So who was closest to Deanna?</p> <p>20 A. Myself or John probably.</p> <p>21 Q. Who was the farthest?</p> <p>22 A. Probably Mr. Cannon-El.</p> <p>23 Q. Okay. And was Ms. Adams sitting or</p> <p>24 standing?</p> <p>25 A. I believe she was sitting.</p>	<p>1 like, "Whatever, move it along, whatever."</p> <p>2 (Indicating)</p> <p>3 Q. As you're saying that, you're</p> <p>4 waving your arms?</p> <p>5 A. Yes. Like, "Move it along. Come</p> <p>6 on, move it along. Whatever. I get it."</p> <p>7 (Indicating)</p> <p>8 Q. So she was waving her arms in the</p> <p>9 same way you are?</p> <p>10 A. Yes. I believe she did this, like,</p> <p>11 "Whatever." (Indicating)</p> <p>12 Q. That word, "Whatever," did she use</p> <p>13 that word?</p> <p>14 A. Yes, yes, yes. Which, like I said,</p> <p>15 I can understand why it was said, because like</p> <p>16 I said, it was at a pass. They weren't going</p> <p>17 to agree no matter what. They weren't going to</p> <p>18 agree.</p> <p>19 Q. And at that time did you feel</p> <p>20 threatened by --</p> <p>21 A. No, not at all.</p> <p>22 Q. -- either one of them?</p> <p>23 A. No. I believe that -- was it a</p> <p>24 normal talking tone like we're having now?</p> <p>25 No.</p>

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<p>1 Were they screaming bloody murder 2 at each other? 3 No. 4 JUDGE GOLLIN: Whose tone was what? 5 THE WITNESS: I believe both tones 6 were pretty similar. I didn't think either 7 party was really like screaming. I feel like 8 there's a difference in having a heated 9 conversation. 10 JUDGE GOLLIN: Did they both have a 11 tone that was louder than normal conversational 12 tone? 13 THE WITNESS: Yes, yes, yes. 14 Q. Did you feel like they had the same 15 tone? 16 A. It was similar. I didn't seem 17 threatened or feel threatened by either party. 18 Q. And you said you didn't -- did you 19 feel like it was yelling? 20 A. No. I mean, like I said, they were 21 louder than talking, but I didn't think they 22 were screaming at each other. 23 Q. Okay. So when they got to the 24 impasse, you know, and Deanna said, "Whatever" 25 and waved Mr. Cannon-El off, what happened</p>	<p>1 Q. Did Mr. Cannon-El ever move within 2 the office during this interaction? 3 A. He was pretty much in the doorway 4 or outside of the doorway the entire time. 5 Q. When you say, "in the doorway or 6 outside of the doorway," did he move between in 7 the doorway and outside of the doorway? 8 A. At the point when she asked him to 9 leave, he stepped out of the doorway, which 10 technically he left, but didn't leave. 11 Q. But he was no longer in her office? 12 A. Technically, yes. 13 Q. And after he stepped out of her 14 office, did you hear Mr. Cannon-El say 15 anything? 16 A. Not anything that I believed to be 17 terrible or threatening. 18 JUDGE GOLLIN: Again, I just want 19 to hear what you have to say and what you 20 recall, okay? 21 THE WITNESS: No, I didn't hear 22 anything. 23 Q. Did you hear him saying anything 24 about his complaint? 25 A. That he was just trying to turn his</p>
Page 186	Page 188
<p>1 after that? 2 A. Basically she asked him to leave at 3 a certain point. She told him, "You've got to 4 go," like, "It's time for you to leave." 5 She told him, I believe, to clock 6 out and go home. 7 Q. And what did Mr. Cannon-El do? 8 A. I don't think he initially left. 9 And then at some point she decided she was 10 going to count down to him. She said, "I'm 11 going to count to the count of three or I'm 12 going to call the Cops if you don't go," 13 something along those lines, where she said, 14 "One," and I believe Mr. Cannon-El said, "Two, 15 three." 16 But again, what grown person wants 17 to be counted at? 18 MR. MARTIN: Objection to that 19 answer. 20 JUDGE GOLLIN: I'm going to remind 21 you one more time, I'm only interested in what 22 was said, objective things. And again, that's 23 what's relevant. 24 THE WITNESS: That's fine. 25 JUDGE GOLLIN: Thanks.</p>	<p>1 complaint in. 2 Q. And what happened after that? 3 So at the time that Mr. Cannon-El 4 was in the hallway, where was Ms. Adams? 5 A. She was on the other side of me, 6 behind the desk. 7 Q. What happened at that point? 8 You said he was in the hallway and 9 he asked about turning in his complaint? 10 A. Eventually she called the Police or 11 called a few people to call the Police. The 12 Police I believe were called. 13 Q. Were you there when she made that 14 phone call? 15 A. Yes, yes. 16 Q. About how much time do you think 17 passed from when Ms. Adams first told 18 Mr. Cannon-El to leave her office and when she 19 called the Police? 20 A. Maybe minutes, five minutes tops. 21 Q. At any time did she ask you for 22 help? 23 A. No. 24 Q. When Ms. Adams called the Police, 25 did you see what Mr. Cannon-El did?</p>

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<p>1 A. No.</p> <p>2 Q. Do you know if he stayed --</p> <p>3 A. I believe --</p> <p>4 Q. -- around the office?</p> <p>5 A. -- he started to walk away.</p> <p>6 Q. Did you see him by the office?</p> <p>7 Where were you when she called the</p> <p>8 Police?</p> <p>9 A. I was still in the office.</p> <p>10 Q. And where was Mr. Cannon-El?</p> <p>11 A. I believe in the office or leaving</p> <p>12 the hallway of HR.</p> <p>13 Q. And so you did not see him -- did</p> <p>14 you see him leaving -- after the Police were</p> <p>15 called, did you see him in the office?</p> <p>16 A. No. I seen him outside. When the</p> <p>17 Police actually -- I seen when the Police</p> <p>18 actually showed up. I believe when the Police</p> <p>19 actually showed up, I don't believe he was in</p> <p>20 the office.</p> <p>21 Q. Okay. So the Police were called.</p> <p>22 What did you do then?</p> <p>23 Were you in the office then?</p> <p>24 A. I believe John left, and then I</p> <p>25 left. And I kind of looked at Deanna and I</p>	<p>1 A. I would say there were at least two</p> <p>2 Cop cars. I mean, maybe three or four Cops at</p> <p>3 least.</p> <p>4 Q. And what else did you see outside?</p> <p>5 A. I mean, specifically like just --</p> <p>6 Q. Besides the Police, was anyone else</p> <p>7 there?</p> <p>8 A. I believe Will was out there. I</p> <p>9 believe Ms. Deanna eventually was out there.</p> <p>10 Other than that, I'm not 100 percent sure.</p> <p>11 Q. During the conversation in</p> <p>12 Ms. Adams', did you ever see Mr. Cannon-El</p> <p>13 block Ms. Adams' exit?</p> <p>14 A. I don't believe. Not that I</p> <p>15 recall.</p> <p>16 Q. Did you ever see Mr. Cannon-El walk</p> <p>17 towards Ms. Adams?</p> <p>18 A. Not that I recall.</p> <p>19 Q. During the interaction, were you</p> <p>20 concerned or worried?</p> <p>21 Did you feel threatened?</p> <p>22 A. No.</p> <p>23 Q. Did you feel like you should --</p> <p>24 well, scratch that.</p> <p>25 At any point did you feel the need</p>
Page 190	Page 192
<p>1 said, "I'm sorry," and just kind of left.</p> <p>2 Q. Okay. Did you leave before or</p> <p>3 after -- do you know what Ms. Adams did?</p> <p>4 A. No, I don't remember.</p> <p>5 Q. Okay. Did Mr. Cannon-El leave</p> <p>6 before or after you?</p> <p>7 A. He left before me.</p> <p>8 Q. Did Mr. Poff leave before or after</p> <p>9 you?</p> <p>10 A. Before me.</p> <p>11 Q. Do you know if Ms. Adams left</p> <p>12 before or after you?</p> <p>13 A. I believe she left right after I</p> <p>14 did.</p> <p>15 Q. What did you do after you left?</p> <p>16 A. I just walked over -- went over</p> <p>17 across the street to my area.</p> <p>18 Q. And you said you saw some Police</p> <p>19 cars?</p> <p>20 A. I saw the Police arrive. I believe</p> <p>21 I saw his sister arrive.</p> <p>22 Q. Whose sister?</p> <p>23 A. Mr. Cannon's sister. I'm sorry.</p> <p>24 Q. Okay. About how many Police did</p> <p>25 you see arrive?</p>	<p>1 to move away from Mr. Cannon-El while he was</p> <p>2 talking?</p> <p>3 A. No.</p> <p>4 Q. Did you see him flailing his arms?</p> <p>5 A. No, I mean, nothing specific. I</p> <p>6 feel like everybody kind of talks with their</p> <p>7 hands a little bit, but not anything abnormal.</p> <p>8 Q. Did you see him make any</p> <p>9 threatening gestures with his arms?</p> <p>10 A. No.</p> <p>11 Q. Did you see Ms. Adams crying?</p> <p>12 A. No.</p> <p>13 Q. Do you remember during the</p> <p>14 conversation -- well, during that conversation</p> <p>15 did you ever tell Mr. Cannon-El to calm down or</p> <p>16 settle down --</p> <p>17 A. No.</p> <p>18 Q. -- or tell him to quiet down?</p> <p>19 A. No. I didn't think it was that far</p> <p>20 out of control.</p> <p>21 Q. Did you ever tell him, "Hey, you</p> <p>22 should go," or, "Come with us"?</p> <p>23 A. No.</p> <p>24 Q. Did you hear Mr. Cannon-El curse at</p> <p>25 Ms. Adams or use any profanity towards her?</p>

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1 A. No, not that I believe.
 2 Q. Did you hear him make any threats
 3 toward her?
 4 A. Not that I believe.
 5 Q. Did you hear him say she'd pay for
 6 this?
 7 A. Not that I believe, no.
 8 Q. Was Ms. Adams crying?
 9 A. I don't think so.
 10 Q. Did you feel like the Police needed
 11 to be called?
 12 MR. MARTIN: Objection.
 13 JUDGE GOLLIN: I don't need to know
 14 this. I don't need to know his opinion about
 15 whether the Police needed to be called.
 16 MS. MURAROVA: I'll move on.
 17 JUDGE GOLLIN: Thank you.
 18 Q. After that day did you ever talk to
 19 any Meyer Tool representatives about what
 20 happened on May 26?
 21 A. Yes.
 22 Q. Who did you speak with?
 23 A. Paul Rowland, Nikki Fugate, and I
 24 feel bad because I'm not entirely sure who the
 25 third lady was.

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1 Q. And why did you meet with them?
 2 A. It was an Investigative Committee
 3 to figure out what transpired the two days.
 4 Q. And what two days are you referring
 5 to?
 6 A. The days of May.
 7 Q. How did you find out -- how did you
 8 come to meet with the investigative team?
 9 A. We were brought over pretty much
 10 one by one for the most part.
 11 Q. Where were you when you met with
 12 the Investigative Committee?
 13 A. In the same computer room where we
 14 filed our complaints.
 15 Q. How soon after the complaints was
 16 it?
 17 A. Within a week or so I guess.
 18 Q. Do you know if any of those three
 19 people have any kind of relationship with
 20 anyone involved in the May 25 and May 26
 21 incidents?
 22 A. I believe Paul Rowland, his office
 23 is borderline with Rick Ackerson's. We do a
 24 lot of work with Paul Rowland.
 25 Q. When you say, "borderline," what do

1 you mean?
 2 A. Their offices are in the same
 3 hallway. We do a lot of work for Paul Rowland.
 4 A lot of the in-house stuff, it's Paul
 5 Rowland's stuff.
 6 Q. How long was the investigative
 7 meeting that you attended?
 8 A. Approximately an hour, give or
 9 take.
 10 Q. Okay. And you said you discussed
 11 both May 25 and May 26?
 12 A. Uh-huh.
 13 Q. Okay.
 14 JUDGE GOLLIN: Is that a yes?
 15 THE WITNESS: Yes, sir. I'm sorry.
 16 I'm sorry.
 17 JUDGE GOLLIN: That's okay.
 18 Q. So let's talk about May 25.
 19 What did you tell the committee
 20 about what happened on May 25?
 21 A. I mean, I tried to tell them the
 22 best that I recall the day. Again, I expressed
 23 that I didn't believe Mr. Ackerson addressed
 24 his employees correctly. I thought that he
 25 came off rude and it wasn't how you're supposed

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1 to, in my opinion, treat employees.
 2 Q. Regarding May 26, what did you tell
 3 the Investigative Committee?
 4 A. Specifically, I mean, again, the
 5 same things, that I didn't believe Mr. Metcalf
 6 was a qualified supervisor, that there were
 7 other, better candidates, and that they
 8 actually played a little bit of a game with us,
 9 and that technically the supervisor role was
 10 provided or pretty much asked if everybody
 11 wanted it. And when I brought it up to
 12 Mr. Ackerson, he said, "What's a little
 13 friendly competition?"
 14 Q. Earlier today you testified about
 15 making a complaint to the Investigative
 16 Committee about how employees can -- at what
 17 point -- I believe you said -- based on what
 18 you said, at what point does a boss step over
 19 the line?
 20 A. Yeah, yeah.
 21 Q. Can you tell me --
 22 A. I don't know exactly what the quote
 23 was.
 24 At what point does it become out of
 25 line for a boss to talk to employees a certain

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<p style="text-align: right;">Page 197</p> <p>1 way?</p> <p>2 JUDGE GOLLIN: Is this during this</p> <p>3 investigatory meeting?</p> <p>4 THE WITNESS: Yes, sir. Yes.</p> <p>5 Q. What, if anything, did you tell</p> <p>6 them about how loud the May 26 interaction was?</p> <p>7 A. I thought Rick was way too loud.</p> <p>8 Q. I'm talking about the next day with</p> <p>9 Deanna.</p> <p>10 A. I felt like they were loud, but not</p> <p>11 loud enough to terrify. I mean, it wasn't, in</p> <p>12 my opinion, anything out of the ordinary for</p> <p>13 two people who met. I didn't think it was</p> <p>14 overly loud or overly out of the ordinary.</p> <p>15 Q. And did you tell them what -- what,</p> <p>16 if anything, did you tell them about Will's</p> <p>17 actions on May 26, during the interaction with</p> <p>18 Ms. Adams?</p> <p>19 A. I didn't feel like he did anything</p> <p>20 out of line.</p> <p>21 Q. Okay. Did you describe to them at</p> <p>22 all what occurred or what he did, where he was</p> <p>23 during the interaction?</p> <p>24 A. I don't know about specifics, but</p> <p>25 I'm sure yes.</p>	<p style="text-align: right;">Page 199</p> <p>1 personally and that I've been told, as well,</p> <p>2 that he acts out of line. I told them about</p> <p>3 the event of Huck Finn being introduced to the</p> <p>4 nightshift and him yelling at the employee.</p> <p>5 Q. What, if any, questions did the</p> <p>6 committee ask you?</p> <p>7 A. I don't remember specifically.</p> <p>8 Q. Do you remember them asking you</p> <p>9 about what you think should happen?</p> <p>10 A. Oh, I'm sure. I honestly didn't</p> <p>11 think anything should happen.</p> <p>12 Q. Did you tell them that?</p> <p>13 MR. MARTIN: Objection.</p> <p>14 JUDGE GOLLIN: You're asking him</p> <p>15 what he said?</p> <p>16 What's your objection?</p> <p>17 MR. MARTIN: His objective opinion</p> <p>18 about what should have been done.</p> <p>19 MS. MURAROVA: I'm asking what he's</p> <p>20 been told.</p> <p>21 JUDGE GOLLIN: The argument is you</p> <p>22 have an impartial investigation, and he's being</p> <p>23 asked specifically what he discussed during the</p> <p>24 course of that meeting.</p> <p>25 So I'm going to allow the questions</p>
<p style="text-align: right;">Page 198</p> <p>1 Q. Okay. So do you remember if you</p> <p>2 told them that Will stepped backwards out of</p> <p>3 the office?</p> <p>4 A. Yes, yes, yes.</p> <p>5 Q. You did tell them that?</p> <p>6 A. Yes.</p> <p>7 Q. Besides the incidents of May 25 and</p> <p>8 26, do you remember talking to the committee</p> <p>9 about anything else?</p> <p>10 A. I'm not -- not specifically. I</p> <p>11 mean, not specifically. I'm sure yes, but I</p> <p>12 don't know.</p> <p>13 Q. Do you remember talking to them</p> <p>14 about Rick's behavior generally?</p> <p>15 A. Yes, yes. He's treated me similar</p> <p>16 in the past for asking questions and stuff.</p> <p>17 Q. And you told that to the</p> <p>18 Investigative Committee?</p> <p>19 A. Yes.</p> <p>20 Q. Do you remember discussing anything</p> <p>21 about Gordy McGuire's behavior?</p> <p>22 A. Yes.</p> <p>23 Q. What did you tell the committee</p> <p>24 about Gordy McGuire?</p> <p>25 A. That I've seen him act out of line</p>	<p style="text-align: right;">Page 200</p> <p>1 about what specifically was asked of you, not</p> <p>2 your impressions.</p> <p>3 Q. What did you tell them?</p> <p>4 A. I didn't feel, personally, he did</p> <p>5 anything wrong. I didn't think they did</p> <p>6 anything wrong. I thought it was a little bit</p> <p>7 louder than normal, but I didn't think it was</p> <p>8 excessively loud.</p> <p>9 Q. What, if anything, did you tell</p> <p>10 them about what you think should happen to the</p> <p>11 people involved?</p> <p>12 A. It should be either equal or</p> <p>13 nothing.</p> <p>14 Q. Do you know what happened as a</p> <p>15 result of the investigation?</p> <p>16 A. Mr. Cannon-El was fired. But</p> <p>17 beyond that, I'm not entirely sure. My</p> <p>18 verbal/nonverbal write-up. Beyond that, I</p> <p>19 don't know what happened to Mr. McGuire. I</p> <p>20 don't know what happened to Mr. Ackerson. I</p> <p>21 don't know if Mr. Metcalf got any -- I don't</p> <p>22 know who else received any trouble.</p> <p>23 Q. You mentioned your verbal/nonverbal</p> <p>24 write-up. I have some questions about that.</p> <p>25 So I'll just go ahead and show you a document</p>

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<p>1 before I ask you questions about it. 2 MS. MURAROVA: This will be General 3 Counsel's Exhibit 7. 4 ----- 5 (Thereupon, General Counsel 6 Exhibit 7 was marked for purposes of 7 identification.) 8 ----- 9 Q. So you said, Mr. Bauer, that you 10 got a verbal/nonverbal write-up. 11 What do you mean by that? 12 MR. MARTIN: There's no 8(a)(1) 13 allegation. 14 JUDGE GOLLIN: I missed the 15 question. 16 What was the question? 17 Q. Can you tell me what you're 18 referring to when you say "verbal/nonverbal 19 write-up"? 20 A. This one says "Verbal." 21 Q. You can just ignore the document 22 for a moment and just tell me what you mean by 23 this verbal/nonverbal write-up. 24 JUDGE GOLLIN: Why do I need to 25 know?</p>	<p>1 A. Christine Steele came over, I was 2 inside of a machine working, and I knew what 3 she was going to give me, so I turned my 4 machine off, walked to the same break room 5 where we had the meeting with Mark Metcalf 6 being introduced as the go-to guy, and she 7 stated that they were going to give me a verbal 8 write-up, but they wanted to give me an actual 9 write-up, whoever "they" are. 10 MS. MURAROVA: Okay. Your Honor, 11 I'd move General Counsel 7 into evidence. 12 JUDGE GOLLIN: Any objection? 13 MR. MARTIN: Again, I'm renewing my 14 objection that there is no 881 allegation that 15 they've done anything unlawful to Mr. Bauer. 16 JUDGE GOLLIN: And I believe part 17 of your defense was that this wasn't 18 retaliatory, and you look at the discipline 19 that was issued to other people, and so I think 20 there is relevance to your defense. 21 MR. MARTIN: Correct. 22 JUDGE GOLLIN: I'm not asking for 23 you to agree with me or not, I'm telling you 24 why I'm going to receive it. 25 MR. MARTIN: That's fine.</p>
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<p>1 I mean, if you want to ask him if 2 there was a meeting or a conversation where he 3 was talked to or about the document, that's 4 fine, but I don't need to have him explain 5 verbal/nonverbal, what that means. His 6 objective view, that doesn't matter. 7 Q. So please look at General Counsel's 8 Exhibit 7. 9 What is this, Mr. Bauer? 10 A. This is a write-up. 11 Q. Okay. And is that the write-up you 12 were just referring to? 13 A. Yes. 14 Q. The date on top is June 13, 2016. 15 It looks like your signature is on the bottom. 16 Is that your signature? 17 A. Yes. 18 Q. Is that your date by your 19 signature? 20 A. Yes. Yes, ma'am. 21 Q. Would that be the date that you 22 received this? 23 A. Yes, ma'am. 24 Q. Can you tell me the circumstances 25 about how you received this write-up?</p>	<p>1 JUDGE GOLLIN: So General Counsel 7 2 is received. 3 ----- 4 (Thereupon, General Counsel 5 Exhibit 7 was received into 6 evidence.) 7 ----- 8 JUDGE GOLLIN: Do you know whose 9 signatures these are on the Supervisor's 10 Signatures? 11 Have you seen these signatures 12 before? 13 THE WITNESS: No, no. I believe 14 that's Christine Steele and Gordy McGuire, but 15 I'm not sure. 16 JUDGE GOLLIN: Okay. 17 Q. At any point after -- I guess let 18 me back up. 19 Mr. Bauer, do you keep a journal? 20 A. Yes, ma'am. 21 Q. At any point after what happened 22 did you memorialize what happened in a journal? 23 A. Yes, ma'am. About two days after I 24 was -- it took about two days to get back to 25 normal sleep, back to normal eating, so at that</p>

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<p style="text-align: right;">Page 205</p> <p>1 point I decided to try to sit down and have a 2 decent clear of a mind as I possibly could and 3 tell my accounts on my personal journal. I 4 knew it was going to be bigger than just going 5 to HR and filing some papers. 6 ----- 7 (Thereupon, General Counsel 8 Exhibit 8 was marked for purposes of 9 identification.) 10 ----- 11 Q. I'm going to show you what I'm 12 marking as General Counsel's Exhibit 8. 13 Mr. Bauer, do you recognize this 14 document? 15 A. Yes, ma'am. 16 Q. What is this? 17 A. This is my journal. 18 Q. At the time that you wrote this, 19 this is your recollection of what had happened? 20 A. Yes, ma'am. 21 MS. MURAROVA: I'd like to move 22 General Counsel's 8 into evidence. 23 Q. Let me ask you one more question. 24 There's a date on here, 5-28. 25 What does that represent?</p>	<p style="text-align: right;">Page 207</p> <p>1 JUDGE GOLLIN: There's no issue 2 that he's fabricated his statement or he's 3 lacking recollection of it, so why do I need to 4 have a statement that he's memorialized if he's 5 able to recall it and testify? 6 MS. GRUBB: There's several points 7 that he couldn't quite remember. 8 JUDGE GOLLIN: If you want to use 9 it for him to review it and have him testify, 10 that's fine. I'm not going to take his 11 statement. It's written two or three days 12 after the statement. It's a couple days after. 13 If you want to refresh his recollection on 14 those points and have him testify 15 independently, that's fine. 16 MS. MURAROVA: I understand. Give 17 me just a moment, your Honor. 18 Your Honor, that's fine. We'll 19 withdraw the Exhibit. 20 JUDGE GOLLIN: So Exhibit 8 is 21 being withdrawn, so I'm assuming your 22 withdrawing your objection? 23 MR. MARTIN: Yes. 24 Q. After May 26, what if any changes 25 did you experience in your workplace?</p>
<p style="text-align: right;">Page 206</p> <p>1 A. That was just the date. It was 2 three days after the event. I was trying to 3 date it to my own, personal so I could go back 4 and look for the most part. 5 MS. MURAROVA: I'd like to move 6 General Counsel's 8 into evidence. 7 MR. MARTIN: Objection. What he 8 put in his diary isn't relevant to what he told 9 the employer, what the employer acted on, what 10 information the employer acted on. Again, it's 11 his thoughts that he either did or did not also 12 give to the employer about the situation. 13 JUDGE GOLLIN: Any response to 14 that? 15 MS. MURAROVA: Your Honor, I think 16 it's relevant. It was written near the time of 17 the events, when it occurred, and I think it 18 shows that the activity between Mr. Poff, 19 Mr. Bauer and Mr. Cannon-El was concerted. 20 JUDGE GOLLIN: This individual 21 testified about the events, so he gave his 22 firsthand accounts and his recollection, so why 23 do I need his written statement? 24 MS. MURAROVA: I would say just to 25 reaffirm.</p>	<p style="text-align: right;">Page 208</p> <p>1 A. For a brief period of time I was 2 sent over to run production due to lack of work 3 in my area. 4 MR. MARTIN: Objection. I don't 5 understand the relevance of what happened to 6 him in the next days. 7 JUDGE GOLLIN: Well, again, this 8 goes to the point of how you treated this 9 individual, the Charging Party, how you treated 10 the other people who were allegedly part of the 11 conduct, so it goes to disparate treatment as 12 to your Wright Line defense. 13 Could we read back the question and 14 answer? 15 Because I didn't hear the whole 16 answer. 17 Q. Sure. After May 26, what if any 18 changes did you experience in your workplace? 19 A. I got moved over into production a 20 few months after the event due to lack of work 21 in my department, yet it was only me and John 22 Poff who got move. 23 JUDGE GOLLIN: You said a couple 24 months? 25 THE WITNESS: I mean, within two or</p>

52 (Pages 205 to 208)

<p style="text-align: right;">Page 209</p> <p>1 three months approximately. 2 Q. And where were you moved to? 3 A. I was moved over to the 414 4 Production Zone, which is not -- I mean, 5 originally they were trying to put me on 6 machines that I had never ran before. It 7 wasn't a typical job that I did. They tried to 8 have a temp train me. Which again, I expressed 9 all these concerns to Ms. Adams, which she said 10 all those things -- a temp should never train 11 another Meyer employee. 12 Q. So you were moved to the 414 Cell. 13 Is that still within the -- you 14 called that production? 15 A. Yes. 16 Q. Is that the same -- you said before 17 you were in development? 18 A. Yes, I'm in development. 19 Q. And is development different than 20 production? 21 A. Entirely. I mean, every day could 22 be entirely different for me. I might one run 23 thing one day, same machines, but different 24 parts of the ring of the turbine essentially. 25 Q. In terms of the work that you did,</p>	<p style="text-align: right;">Page 211</p> <p>1 Can you tell me more about that 2 conversation? 3 A. I actually brought -- 4 JUDGE GOLLIN: Why do I need to 5 know about his conversation with Mr. Ackerson 6 after the fact? 7 If you want to talk about what 8 happened to this individual after, but his 9 conversations, unless it relates to this 10 charge, you're going to have to explain to me 11 what that would be relevant to. 12 MS. MURAROVA: I'll move on. 13 JUDGE GOLLIN: Do you have a point? 14 MS. MURAROVA: I don't want to make 15 the point in front of the Witness. I'd rather 16 him make the point. 17 JUDGE GOLLIN: Why don't you ask -- 18 I will allow a limited line of questions as 19 relates to this, but I don't want to go far 20 afield. 21 Q. Did you ever tell the employer 22 whether you preferred production or development 23 work? 24 A. Yes. I love, love development 25 work. It's fun.</p>
<p style="text-align: right;">Page 210</p> <p>1 how is production different than development? 2 A. A higher volume. It's not 3 necessarily harder, but it's an entirely 4 different job. You entirely really are 5 learning from scratch again. 6 Q. You said you and Mr. Poff were 7 transferred. 8 How do you know that? 9 A. Nobody else left. There's only two 10 or three people other people in my department, 11 and nobody else got moved. 12 Q. Do you know if the type of work 13 that you do is also done on first shift? 14 A. Yes, yes. It's done on opposite 15 shifts. 16 Q. And do you know if anyone from 17 first shift was moved -- 18 A. No. 19 Q. -- for lack of work? 20 A. Nobody was moved. Nobody was 21 moved. That was actually one of my concerns to 22 Mr. Ackerson, and I was told that that was none 23 of my damn business, what day shift does. 24 Q. So you said that was one of your 25 concerns with Mr. Ackerson.</p>	<p style="text-align: right;">Page 212</p> <p>1 JUDGE GOLLIN: So you told someone? 2 THE WITNESS: Yes. 3 JUDGE GOLLIN: Who did you tell? 4 THE WITNESS: I've expressed it to 5 Ms. Deanna. I've expressed it Stehlin, which 6 is technically Rick's boss. 7 JUDGE GOLLIN: When did you explain 8 this to them -- 9 THE WITNESS: Many times. 10 JUDGE GOLLIN: -- in relation to 11 May 26? 12 THE WITNESS: After the fact, even 13 before being thrown into production. Every 14 time that production gets brought up, I go, "I 15 don't want to go back over there. I like 16 staying over here." I feel like a genius among 17 idiots over there. 18 JUDGE GOLLIN: Next question. 19 Q. Did your terms and conditions of 20 employment change in any other way after 21 May 26? 22 A. I don't know specifically. 23 Q. Let me actually back up and say, 24 you said a few months after you were moved to 25 production.</p>

53 (Pages 209 to 212)

<p style="text-align: right;">Page 213</p> <p>1 A. Yes.</p> <p>2 Q. Are you still in production?</p> <p>3 A. No. I'm thank goodness back in my</p> <p>4 area.</p> <p>5 JUDGE GOLLIN: How long were you in</p> <p>6 production for?</p> <p>7 THE WITNESS: Approximately one to</p> <p>8 two months maybe.</p> <p>9 Q. Okay. Did you have any issues --</p> <p>10 any problems come up in your workplace after</p> <p>11 May 26?</p> <p>12 A. Not specifically that I can recall.</p> <p>13 Q. Did you have any problems</p> <p>14 requesting vacation days?</p> <p>15 A. Oh, yes. Sorry. Yes.</p> <p>16 MR. MARTIN: Objection.</p> <p>17 MS. MURAROVA: He said he didn't</p> <p>18 recall, and I asked -- I was exhausting the</p> <p>19 Witness' recollection.</p> <p>20 JUDGE GOLLIN: So you were asked</p> <p>21 about vacation days.</p> <p>22 THE WITNESS: Yes, yes, yes.</p> <p>23 JUDGE GOLLIN: So what happened</p> <p>24 with vacation days?</p> <p>25 Just for both of you, we're</p>	<p style="text-align: right;">Page 215</p> <p>1 A. Everyone was listening, but when</p> <p>2 they interviewed, they seemed to check out,</p> <p>3 claimed to check out when they were actually</p> <p>4 interviewed by Meyer Tool, which I entirely</p> <p>5 understand.</p> <p>6 Q. What do you mean "checked out"?</p> <p>7 A. They claimed that they literally</p> <p>8 sat there and stared blankly into space, from</p> <p>9 what I understand.</p> <p>10 Q. Let's go back to your recollection</p> <p>11 of that meeting.</p> <p>12 A. I have no idea. I would ask Glenn</p> <p>13 Young.</p> <p>14 Q. So you don't recall Mr. Young</p> <p>15 saying anything?</p> <p>16 A. I don't recall.</p> <p>17 Q. Was that typical behavior for him</p> <p>18 in meetings?</p> <p>19 A. For the most part. He's pretty</p> <p>20 complacent, I guess would be the right word.</p> <p>21 Q. You mentioned Steve.</p> <p>22 A. Yeah, Steven Korb.</p> <p>23 Q. Steven Korb?</p> <p>24 A. Yes.</p> <p>25 Q. What, if anything, did he say</p>
<p style="text-align: right;">Page 214</p> <p>1 bordering on going far afield, so we'll explore</p> <p>2 this, but --</p> <p>3 THE WITNESS: I had put a vacation</p> <p>4 day in that mysteriously had been deleted.</p> <p>5 Q. Has that ever happened before May</p> <p>6 of 2016?</p> <p>7 A. No. Never.</p> <p>8 Q. After the May 26 incident, do you</p> <p>9 feel comfortable going to file a complaint in</p> <p>10 HR?</p> <p>11 JUDGE GOLLIN: I don't need to know</p> <p>12 that.</p> <p>13 MS. MURAROVA: I have no further</p> <p>14 questions then.</p> <p>15 JUDGE GOLLIN: All right. Charging</p> <p>16 Party, do you have questions?</p> <p>17 MS. GRUBB: Just a few cleanup,</p> <p>18 your Honor, if I may.</p> <p>19 - - - - -</p> <p>20 BY MS. GRUBB:</p> <p>21 Q. About the May 25 meeting, you</p> <p>22 testified that other people were present,</p> <p>23 specifically Mr. Glenn Young.</p> <p>24 What was he doing during the</p> <p>25 meeting?</p>	<p style="text-align: right;">Page 216</p> <p>1 during the meeting?</p> <p>2 A. As far as I know, the same thing as</p> <p>3 Mr. Young.</p> <p>4 Q. Now, Mr. Metcalf was there being</p> <p>5 presented as the go-to guy.</p> <p>6 A. Yes.</p> <p>7 Q. What, if anything, did he say</p> <p>8 during this?</p> <p>9 A. He was pretty quiet, as well. He</p> <p>10 didn't have much to say.</p> <p>11 Q. Did you ever observe Mr. Cannon-El</p> <p>12 going and speaking directly to him?</p> <p>13 A. Not that I recall.</p> <p>14 Q. Do you recall Mr. Ackerson bringing</p> <p>15 him to the front and introducing him?</p> <p>16 A. He did say, "Hey, this is the guy,</p> <p>17 he's the 30-year guy."</p> <p>18 Q. So during that whole conversation</p> <p>19 on the phone, Mr. Metcalf just stood there?</p> <p>20 A. I can't -- as far as I can</p> <p>21 remember, he didn't do anything.</p> <p>22 Q. Now, you also testified that you</p> <p>23 believe you were told you were no longer to</p> <p>24 report to Mr. Huck Finn.</p> <p>25 A. Yes.</p>

54 (Pages 213 to 216)

Page 217	Page 219
<p>1 Q. Was Mr. Finn, the night supervisor, 2 there at the meeting? 3 A. Yes, yes. No, he wasn't in the 4 meeting while they were introducing Mark 5 Metcalf. I kind of believe that they were -- 6 JUDGE GOLLIN: He wasn't there at 7 the meeting? 8 THE WITNESS: Yes. 9 JUDGE GOLLIN: Next question. 10 Q. As far as Mr. Ackerson being there, 11 you said that he made a phone call to Mr. Gordy 12 McGuire. 13 How did you hear that? 14 Was that on speaker? 15 A. Yeah, phones are loud enough that 16 you can kind of hear what's going on. I don't 17 know if it was actually on speaker. 18 Q. Now, you also said that -- you used 19 the phrase "talking up" when you were talking 20 about Mr. Poff. 21 What is "talking up"? 22 A. I'm not entirely sure of the 23 context. I'm sure just speaking up. It might 24 have been just a grammatical -- 25 Q. So only yourself, Mr. Cannon-El and</p>	<p>1 A. Yes. 2 Q. Did they specifically address to 3 you what you did wrong as far as your improper 4 conduct? 5 A. I believe the reason was for saying 6 that I would not listen to Mark Metcalf. 7 Q. They told you that or that's your 8 belief? 9 A. I believe. They didn't say -- 10 Q. They never told you that? 11 A. -- they didn't say anything. I 12 don't know. 13 Q. My question is, did they tell you 14 that the improper -- what the improper conduct 15 block was for? 16 A. I don't recall. 17 Q. Did they tell you -- 18 JUDGE GOLLIN: If you're going to 19 go through -- when you got presented this 20 document, what if any explanation were you 21 given for receiving this? 22 THE WITNESS: For saying I wasn't 23 going to listen to him, is why I got the 24 write-up. 25 JUDGE GOLLIN: Anything else?</p>
Page 218	Page 220
<p>1 Mr. Poff -- 2 A. Spoke up. 3 Q. -- spoke up? 4 A. Yes. 5 Q. And as far as -- 6 A. You have to understand, most of 7 these things that I wrote were being under 8 sleep deprived and whatnot, that's why I tried 9 to use my own diary. 10 Q. So when you looked at Exhibit 7, 11 which was your write-up, this was regarding 12 only May 25, am I correct? 13 A. That's what it says. 14 Q. Okay. And it says -- these are 15 blocked, things that say like "Improper 16 Conduct," blocked, "Lack of 17 Cooperation/Teamwork," blocked, 18 "Insubordination," blocked. 19 A. Yes, ma'am. 20 Q. Those are the items that you were 21 written up for? 22 A. I believe, yes, ma'am. 23 Q. Okay. And then you signed this. 24 This was given to you and you 25 signed, correct?</p>	<p>1 THE WITNESS: Not that I recall. 2 Q. So you don't recall anything else? 3 A. I don't recall. 4 Q. The word "insubordination" is here. 5 You don't recall that word being 6 used by Ms. Steele? 7 A. That's why I said, yeah, 8 insubordination. 9 Q. She said the words, "You were 10 un subordinate" -- 11 A. Yes. 12 Q. -- for that incident? 13 A. For that incident. 14 Q. Did anybody write you up for the 15 May 26 incident? 16 A. No, not as far as I know. This is 17 the only thing that I got. 18 Q. Now, as far as this diary, this 19 wasn't an isolated event, did you write down 20 other things that happened at work? 21 A. Not normally. Not normally, no. 22 That wasn't entirely the idea of my diary. I 23 just knew that I had to get it out. I knew I 24 had to -- 25 JUDGE GOLLIN: So you answered the</p>

55 (Pages 217 to 220)

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<p style="text-align: right;">Page 221</p> <p>1 question.</p> <p>2 THE WITNESS: No.</p> <p>3 Q. Did anybody from Meyer Tool ask you</p> <p>4 to write any statements at any time?</p> <p>5 A. There's like three statements that</p> <p>6 Meyer Tool asked me. I had -- for the original</p> <p>7 one, I believe I had to write one.</p> <p>8 Q. The original one?</p> <p>9 A. The original one, when we spoke to</p> <p>10 Tina, I believe. Another one was with the</p> <p>11 actual meeting, the committee. I believe I had</p> <p>12 to write one for them.</p> <p>13 Q. And then you said there was a</p> <p>14 third?</p> <p>15 A. I believe the third one is this one</p> <p>16 here. (Indicating)</p> <p>17 Q. Your diary?</p> <p>18 A. Yes.</p> <p>19 JUDGE GOLLIN: Meyer Tool asked you</p> <p>20 to write in your diary?</p> <p>21 THE WITNESS: No, no, no, no.</p> <p>22 JUDGE GOLLIN: She asked you --</p> <p>23 THE WITNESS: No.</p> <p>24 Q. So Meyer Tool asked you -- you</p> <p>25 wrote the first complaint, then they asked you</p>	<p style="text-align: right;">Page 223</p> <p>1 the committee --</p> <p>2 A. I believe.</p> <p>3 Q. -- requested?</p> <p>4 A. Yes.</p> <p>5 Q. This is before or after you spoke</p> <p>6 to the committee that you wrote that statement?</p> <p>7 A. The 27th?</p> <p>8 That would have been the day of.</p> <p>9 That's when I had to write it for them.</p> <p>10 Q. So did they watch you write it?</p> <p>11 Did you bring it in prepared?</p> <p>12 A. I don't remember. You're asking me</p> <p>13 from a year ago about one day when I got two</p> <p>14 hours of sleep. I honestly don't know.</p> <p>15 Q. Now, you said that when you went</p> <p>16 into Ms. Adams, you started talking about the</p> <p>17 go-to guy.</p> <p>18 A. Uh-huh.</p> <p>19 Q. And you preceded Will in by about</p> <p>20 five minutes, correct?</p> <p>21 A. Yes.</p> <p>22 Q. You also testified that Ms. Deanna</p> <p>23 said to always resort to Huck Finn?</p> <p>24 A. If I didn't trust Mark Metcalf, to</p> <p>25 refer back to Huck Finn.</p>
<p style="text-align: right;">Page 222</p> <p>1 to write something for the committee?</p> <p>2 A. Yes.</p> <p>3 Q. Did you take that in to them when</p> <p>4 you were talking with them?</p> <p>5 A. Chronologically it wasn't in line.</p> <p>6 I think the 26th is when we filed the</p> <p>7 complaint. Then I have the 27th one, which</p> <p>8 that might have been the committee. And like I</p> <p>9 said, this one is my own one. So this would</p> <p>10 have been chronologically not correct.</p> <p>11 (Indicating)</p> <p>12 Q. So the first one was your</p> <p>13 handwritten complaint sitting in the training</p> <p>14 center.</p> <p>15 The second you were told to write a</p> <p>16 statement for the committee, and you dated that</p> <p>17 5-27?</p> <p>18 A. I believe, yes.</p> <p>19 Q. Did they tell you why you should</p> <p>20 date it 5-27?</p> <p>21 A. No. I believe I just dated it. I</p> <p>22 have no idea.</p> <p>23 Q. So that's not reflective of the</p> <p>24 events that happened on 5-27, it's your</p> <p>25 recollection of the day before based on what</p>	<p style="text-align: right;">Page 224</p> <p>1 Q. When she said that, was Mr. --</p> <p>2 A. I don't think they were in the</p> <p>3 office at the time.</p> <p>4 Q. Neither of the two?</p> <p>5 A. I don't believe.</p> <p>6 Q. Now, you said that solved your</p> <p>7 problem?</p> <p>8 A. Yeah, for me that helped resolve a</p> <p>9 ton of issues. That, for me -- I realized</p> <p>10 Mark can be the guy that tells me -- guides me</p> <p>11 in the right direction, but if I don't believe</p> <p>12 what he has to say, Huck Finn still is the boss</p> <p>13 ultimately.</p> <p>14 Q. So if that resolved your situation</p> <p>15 before the other two men got there, why didn't</p> <p>16 you just leave?</p> <p>17 A. I don't know. Because we were all</p> <p>18 together. I believe we came together, we were</p> <p>19 going to leave together.</p> <p>20 Q. Did you address with her any other</p> <p>21 issue?</p> <p>22 A. I don't believe.</p> <p>23 Q. Now, while you were in the office,</p> <p>24 your back was to Will, correct?</p> <p>25 A. Uh-huh.</p>

56 (Pages 221 to 224)

Page 225	Page 227
<p>1 Q. Did you at any time turn around to 2 see if Mr. Ackerson was standing in the 3 hallway? 4 A. I'm sure at some point I'd have to 5 have looked, but I didn't see Rick. I wouldn't 6 have been able to see out in the hallway very 7 well anyway. 8 Q. From your chair position? 9 A. From my chair, that wouldn't have 10 been -- 11 Q. Did you at any time see 12 Mr. Ackerson as you were leaving her office? 13 A. I don't know. But again, a lot of 14 stuff happened in a really short amount of 15 time. 16 Q. Do you recall Ms. Adams leaving her 17 office and then actually coming back into her 18 office? 19 A. Possibly, yeah. 20 Q. And then going back out to the 21 office? 22 A. Yes. 23 Q. You also said there were three -- 24 she was making calls on the phone. 25 Do you know who she was calling?</p>	<p>1 A. Yes. 2 Q. And you believe Ms. Adams was 3 speaking to Bo in the -- 4 A. I believe that is one of the phone 5 calls, but I'm not 100 percent sure. 6 Q. What do you recall her saying to 7 these individuals specifically? 8 A. I have no idea. 9 Q. Was she speaking in a loud, 10 terrified, scary voice? 11 A. No. It didn't seem anything crazy 12 like that. 13 Q. Was she providing facts or what was 14 going on? 15 A. I don't recall. 16 Q. And Mr. Poff was sitting next to 17 you? 18 A. I believe so, yes. 19 Q. Okay. Now, as far as when you 20 observed Ms. Adams and Bo Easton outside when 21 the Police came, did you observe Mr. Easton say 22 anything to the Police? 23 A. I couldn't hear anything. I could 24 see them, but I didn't pay enough attention. 25 Q. Did you see Mr. Finn outside?</p>
Page 226	Page 228
<p>1 A. Not specifically, other than -- I 2 mean, I believe Bo Easton or somebody higher 3 up. I believe the secretary. Specifically, I 4 don't know. That would be speculation. 5 Q. So did she make one or two calls? 6 A. I believe multiple calls. Whether 7 it was one or two or two or three, I don't 8 know. But it was multiple calls, I believe. 9 Q. Was one of them to the Police? 10 A. I don't think so. 11 Q. You believe she was calling -- 12 A. Somebody to call the Police, yes. 13 Q. And you had earlier said Bo, that 14 you had seen him outside with Ms. Adams, 15 correct? 16 A. I believe. 17 Q. Who is Bo? 18 A. I don't know what his title is. 19 He's the high-up. He's not VP. I feel 20 terrible for not knowing what he is, but he's 21 the owner's son. That's terrible. I don't 22 know what he is. 23 Q. So the full name is Bo Easton? 24 A. Yes. 25 Q. And he's the owner's son?</p>	<p>1 A. I don't remember. 2 Q. Now, when Ms. Christine gave you 3 the write-up, did she permit you to write a 4 rebuttal? 5 A. I'm sure she did, yeah. I'm sure. 6 MS. GRUBB: I don't have anything 7 else. 8 JUDGE GOLLIN: Cross? 9 MR. MARTIN: Can I see the Witness' 10 Affidavit, if he has one? 11 MS. MURAROVA: Yes. There is one 12 Affidavit, and it's three pages long. Well, 13 two pages and two lines. I'm handing it over. 14 JUDGE GOLLIN: All right. How much 15 time do you need to read that? 16 MR. MARTIN: I would say three 17 minutes and then a quick restroom break if I 18 can. 19 JUDGE GOLLIN: We'll come back at 20 2:30. 21 Off the record, please. 22 ----- 23 (Recess taken.) 24 ----- 25 JUDGE GOLLIN: Mr. Martin, ready</p>

57 (Pages 225 to 228)

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<p style="text-align: right;">Page 229</p> <p>1 for cross?</p> <p>2 MR. MARTIN: Yes.</p> <p>3 -----</p> <p>4 CROSS-EXAMINATION</p> <p>5 BY MR. MARTIN:</p> <p>6 Q. Good afternoon, Mr. Bauer. As you</p> <p>7 know, I represent Meyer Tool.</p> <p>8 I want to clarify a couple of</p> <p>9 things that I believe you testified about.</p> <p>10 Turning to May 25, so that's the</p> <p>11 first day that you testified about, is it true</p> <p>12 that you told Meyer Tool, quote, I expressed</p> <p>13 that I would not listen to someone that is not</p> <p>14 an official supervisor?</p> <p>15 A. Yes.</p> <p>16 Q. During that meeting Mr. Poff left,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. And you and Mr. Poff are cousins?</p> <p>20 A. Yes.</p> <p>21 Q. And isn't it true that Mr. Poff</p> <p>22 left right at the beginning of the meeting?</p> <p>23 A. I would say halfway point. But</p> <p>24 earlier in the meeting, yes.</p> <p>25 Q. Okay. Isn't it true Mr. Poff left</p>	<p style="text-align: right;">Page 231</p> <p>1 A. Yes.</p> <p>2 Q. And you left anyway, correct?</p> <p>3 A. Yes. I was trying to get -- to</p> <p>4 perform the function and action they pay me and</p> <p>5 require me to do.</p> <p>6 Q. So you didn't see any interaction</p> <p>7 with Mr. Gordy and Mr. Cannon, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And turning to the next day,</p> <p>10 May 26, I believe you said you finished your</p> <p>11 statement first?</p> <p>12 A. Yes.</p> <p>13 Q. And you went to Ms. Adams' office?</p> <p>14 A. Yes.</p> <p>15 Q. And you talked to her about Mark</p> <p>16 Metcalf, as you said?</p> <p>17 A. Yes.</p> <p>18 Q. And I believe you said she helped</p> <p>19 you.</p> <p>20 A. Yes.</p> <p>21 Q. I think you said she fixed</p> <p>22 everything.</p> <p>23 A. For me, she resolved my issues for</p> <p>24 the most part, yes.</p> <p>25 Q. She didn't get angry at you?</p>
<p style="text-align: right;">Page 230</p> <p>1 the meeting before Mr. McGuire said, "There's</p> <p>2 the door"?</p> <p>3 A. Mr. McGuire never said, "There's</p> <p>4 the door."</p> <p>5 Q. Mr. Ackerson.</p> <p>6 A. No, Mr. Ackerson said it, and then</p> <p>7 John, he left. That's why, he was given the</p> <p>8 option of the door.</p> <p>9 Q. Didn't you testify that you thought</p> <p>10 "there's the door" meant that you can resign?</p> <p>11 A. Yes.</p> <p>12 MS. MURAROVA: Relevance. I object</p> <p>13 to what he thinks it meant.</p> <p>14 JUDGE GOLLIN: I'm going to allow</p> <p>15 the question. You guys can argue what weight</p> <p>16 should be given to what meaning in your Briefs.</p> <p>17 Q. Isn't it true that Mr. Poff also</p> <p>18 said that he wouldn't listen to Mr. Metcalf?</p> <p>19 A. I don't remember that. You would</p> <p>20 have to ask him.</p> <p>21 Q. You asked if you could leave the</p> <p>22 meeting, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And you were told you could not</p> <p>25 leave the meeting?</p>	<p style="text-align: right;">Page 232</p> <p>1 A. No, sir.</p> <p>2 Q. She didn't yell at you?</p> <p>3 A. (Witness shaking head.)</p> <p>4 Q. You didn't tell her anything about</p> <p>5 air quality?</p> <p>6 A. I don't believe so.</p> <p>7 Q. And air quality wasn't brought up</p> <p>8 at all on May 26, correct?</p> <p>9 A. Not from me.</p> <p>10 Q. You don't recall it being brought</p> <p>11 up by anybody?</p> <p>12 A. I don't know. But not from me.</p> <p>13 Again, to remember the specifics, what other</p> <p>14 people said, you'd have to ask them.</p> <p>15 Q. I think you said that you gave</p> <p>16 Ms. Adams your statement, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that is the statement that you</p> <p>19 wrote on the 26th?</p> <p>20 A. I believe, yes.</p> <p>21 Q. Do you know whether she read it?</p> <p>22 A. I honestly have no idea.</p> <p>23 Q. You didn't see her read it when you</p> <p>24 gave it to her?</p> <p>25 A. I have no idea. Anybody can look</p>

58 (Pages 229 to 232)

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Page 235

1 and glance. Honestly, no. To speculate
 2 whether she read it or not, I have no idea.
 3 That's not for me to decide.
 4 Q. All right. At some point you
 5 testified that Mr. Cannon-El entered the
 6 office.
 7 A. Yes.
 8 Q. And I believe you said
 9 Mr. Cannon-El was trying to explain himself,
 10 what he thought, correct?
 11 A. Yes.
 12 Q. And isn't it true that you told the
 13 Investigation Committee that Ms. Adams was
 14 trying to offer advice?
 15 A. Sort of, yes, yes, some advice.
 16 Yes.
 17 - - - - -
 18 (Thereupon, Respondent Exhibit 2
 19 was marked for purposes of
 20 identification.)
 21 - - - - -
 22 MR. MARTIN: Your Honor, may I
 23 approach the Witness, please?
 24 JUDGE GOLLIN: Yes.
 25 Q. Mr. Bauer, I'm handing you what's

1 A. "John and Will also joined the
 2 conversation. At some point Will was trying to
 3 explain himself."
 4 Q. What's next?
 5 JUDGE GOLLIN: I'm not going to
 6 have him read through the statement.
 7 Q. So the next line says, "Deanna in
 8 my opinion was trying to offer advice."
 9 A. Yes.
 10 Q. "And the two sides just never seen
 11 eye to eye."
 12 A. Yes.
 13 Q. And that's what you submitted to
 14 the committee?
 15 A. Yes.
 16 Q. And you also told the committee
 17 that during the investigation process?
 18 A. Yeah.
 19 JUDGE GOLLIN: Let me ask you a
 20 question: You were asked on the 27th to fill
 21 this out and then you were asked to do another
 22 statement during your meeting with the
 23 committee?
 24 THE WITNESS: Yeah, I feel like
 25 it's been redundant as heck.

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Page 236

1 been marked as Respondent's Exhibit 2.
 2 Do you recognize this document?
 3 A. Again, yes. I believe this is the
 4 one that the company had me write.
 5 Q. And you wrote this statement why?
 6 A. I believe they asked me to write
 7 yet another one.
 8 Q. Okay. So the committee asked you
 9 to write a statement about what happened in
 10 Ms. Adams' office?
 11 A. I believe, yes.
 12 Q. And you gave the statement to the
 13 committee members --
 14 A. Yes.
 15 Q. -- as to your account of what
 16 happened in Ms. Adams' office?
 17 A. Another account, yes.
 18 Q. Well, just to clarify -- you said,
 19 "Another account" -- the first statement that
 20 the General Counsel went over with you first
 21 related to what happened the day before,
 22 correct?
 23 A. For the most part, yes, yes.
 24 Q. Then if you look at what I believe
 25 is the second sentence, "At some point Will" --

1 JUDGE GOLLIN: Whether or not it's
 2 redundant, I'm trying to find out how many
 3 times by the company you've been asked to
 4 provide a statement.
 5 THE WITNESS: That's the second one
 6 by the company. One from the previous day and
 7 one by the committee. So the committee would
 8 have happened after the fact, too, so there
 9 were two, separate occasions that the company
 10 has asked me to write down.
 11 JUDGE GOLLIN: I want to be clear,
 12 so the record is clear, on the 26th you,
 13 Mr. Poff and Mr. Cannon-El had agreed to go to
 14 HR?
 15 THE WITNESS: Yes.
 16 JUDGE GOLLIN: All three of you
 17 went and all three of you were told to go and
 18 write a statement?
 19 THE WITNESS: Yes, yes.
 20 JUDGE GOLLIN: That's statement
 21 one?
 22 THE WITNESS: Yes, yes.
 23 JUDGE GOLLIN: That's the start of
 24 May 26?
 25 THE WITNESS: Yes.

59 (Pages 233 to 236)

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<p style="text-align: right;">Page 237</p> <p>1 JUDGE GOLLIN: And you were asked 2 by the company to provide a statement? 3 THE WITNESS: Yes. 4 JUDGE GOLLIN: And that's what's 5 Respondent's Exhibit 2? 6 THE WITNESS: Yes. 7 JUDGE GOLLIN: Okay. Go ahead. 8 Q. Mr. Bauer, is that your signature 9 at the bottom of this document? 10 A. I believe. Yeah, that's me. 11 MR. MARTIN: I move for admission 12 of Respondent's Exhibit 2. 13 MS. MURAROVA: I object to the 14 extent that it's for the truth of the matter 15 asserted. The document was made the day after 16 the event, not while it was happening or close 17 in time. 18 JUDGE GOLLIN: But this is the 19 Witness' submission to the company, it's part 20 of the investigation, he's here subject to 21 cross-examination. 22 What's the objection? 23 I'm assuming you're producing this 24 as to what this Witness provided to the company 25 as his recollection of the event.</p>	<p style="text-align: right;">Page 239</p> <p>1 THE WITNESS: Yes. 2 JUDGE GOLLIN: -- you had the 3 interaction, and then you got asked to provide 4 a written statement by the company? 5 THE WITNESS: Yes. 6 JUDGE GOLLIN: And you did that on 7 the 27th? 8 THE WITNESS: I believe so, yes. 9 JUDGE GOLLIN: In relation to this 10 time period, when did you meet with -- 11 THE WITNESS: It had to be that 12 day. The days all kind of -- 13 JUDGE GOLLIN: You don't recall for 14 sure? 15 THE WITNESS: No, not the specifics 16 of the day. I'm not 100 percent sure. 17 JUDGE GOLLIN: Who asked you to 18 prepare this? 19 THE WITNESS: That would have been 20 the committee, Paul or Nikki Fugate or the 21 other lady. 22 JUDGE GOLLIN: May 27 is the 23 written document -- it's Respondent's 24 Exhibit 2, which I'm going to receive over 25 objection -- you believe that the committee --</p>
<p style="text-align: right;">Page 238</p> <p>1 MR. MARTIN: Correct. 2 JUDGE GOLLIN: Your basis for the 3 objection is what? 4 MS. MURAROVA: I guess I'm not sure 5 how -- I understand that this was provided, but 6 for the fact -- I have no objection to this for 7 the purpose of what was provided to the 8 committee, but he's testified about what he 9 remembers happening. I guess I can 10 cross-examine him about what happened. 11 JUDGE GOLLIN: I'm going to receive 12 Respondent's Exhibit 2. I differentiate this 13 between his diary entry. This is a document 14 that he provided to the company as his 15 statement, as opposed to what he wrote in his 16 own note. 17 Did you provide a third written 18 statement to the committee? 19 THE WITNESS: No, I don't believe 20 so. 21 JUDGE GOLLIN: All right. So you 22 went in and had this exchange -- and I'm sorry 23 that I'm hijacking your cross. I just need 24 to get this clear. 25 So you went in on the 26th --</p>	<p style="text-align: right;">Page 240</p> <p>1 THE WITNESS: Yes. 2 JUDGE GOLLIN: -- told you to 3 prepare a written statement? 4 THE WITNESS: Yes, yes. 5 JUDGE GOLLIN: All right. 6 Respondent's Exhibit 2 is received. 7 - - - - - 8 (Thereupon, Respondent Exhibit 2 was 9 received into evidence.) 10 - - - - - 11 Q. If you keep looking at Respondent's 12 Exhibit 2, this is the very beginning of the 13 fourth line from the bottom -- 14 A. Yes. 15 Q. -- so you told the committee, as 16 well, that Mr. Cannon-El, in your words, didn't 17 refuse to leave, but didn't leave exactly 18 either, correct? 19 A. Yeah, I believe he didn't leave 20 willingly because he was still trying to give 21 his complaint at that time. 22 Q. In fact, didn't you tell the 23 committee that you fault Mr. Cannon-El for one 24 thing, it's just that he didn't just walk away 25 when Ms. Adams asked him to?</p>

60 (Pages 237 to 240)

Page 241	Page 243
<p>1 A. I feel that was the only thing 2 that -- if he would have just left 100 percent, 3 that might have resolved it. I feel that -- 4 because I don't think she still had actually 5 received it even up to that point when she 6 threatened with the Police. 7 Q. At the time when you told the 8 committee that Ms. Adams was being helpful to 9 Mr. Cannon-El, certainly I would assume by 10 definition she wasn't acting angrily towards 11 him. 12 A. I don't think either party was 13 really angry at each other. Again, I've seen 14 many debates when people raise their voices, 15 but they weren't angry. 16 Q. Okay. And so I believe you said 17 Mr. Cannon-El and Ms. Adams weren't coming to 18 any sort of agreement in the office. 19 A. Right. 20 Q. Were they talking over each other? 21 A. You've seen people try to make 22 their points. Yeah, I mean, at that point I 23 guess. I'm sure. 24 Q. As they were talking over each 25 other, Ms. Adams said, "Whatever"?</p>	<p>1 point? 2 A. Yes. 3 Q. Okay. And this is after voices 4 were raised? 5 A. Yes. 6 Q. And he went a step outside her 7 doorway and kept talking to her, correct? 8 A. Yeah, which technically he left. 9 Q. Sure. 10 A. I mean, technically that's leaving. 11 Q. Okay. He was still loud when he 12 took a step outside? 13 A. Did the tone change, is that the 14 question? 15 Q. Was he still loud? 16 A. Did the tone change is the 17 question, right? 18 JUDGE GOLLIN: Well, he's going to 19 ask the questions. If you can't answer the 20 question, say you do not understand the 21 question. 22 A. I don't understand the question. 23 Q. Was he loud when he took a step out 24 in the hallway? 25 A. His tone didn't change, is my</p>
Page 242	Page 244
<p>1 A. Uh-huh. 2 Q. I believe you testified that she 3 was trying to move the conversation along? 4 A. Yeah. 5 Q. You and Mr. Poff weren't saying 6 anything during this, correct? 7 A. I don't believe I was. Johnnie 8 might have been. John Poff might have been. 9 Again, you'll have to ask him. I just don't 10 know. 11 Q. And you testified, I believe, that 12 both Mr. Cannon-El and Ms. Adams had raised 13 voices in this meeting. 14 A. Yes. 15 Q. You told the committee that, as 16 well? 17 A. I believe, yeah. 18 Q. Did you hear Mr. Cannon-El call 19 Ms. Adams racist? 20 A. Again, not that I recall. 21 Q. So you can't say one way or the 22 other? 23 A. I don't know one way or the other. 24 Q. And you said Ms. Adams asked 25 Mr. Cannon-El to leave her office at some</p>	<p>1 answer. 2 Q. It was loud before and it stayed 3 loud? 4 A. It stayed the same, so whatever 5 tone it was, yes. 6 Q. I'm not sure if you were clear 7 about this in your testimony or not, but at 8 some point between the time Ms. Adams asked 9 Mr. Cannon-El to leave her office and the time 10 she asked Mr. Cannon-El to go home or she's 11 going to call the Police, she asked him in 12 between that point, you know, "I think you need 13 to clock out for the day and go home," correct? 14 A. Probably, yes. 15 Q. So this is three, separate times 16 that she asked him to leave the office or leave 17 the property, correct? 18 A. Technically, yes, I mean, within a 19 minute. You're talking bam, bam, bam, bam. 20 How much time elapsed is not very much. I 21 mean, within minutes. 22 Q. So minutes? 23 A. It's not long. 24 Q. I think you said it could have been 25 up to five minutes?</p>

61 (Pages 241 to 244)

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<p>1 A. I mean, not long at all. Basically 2 my answer is, you've got to give somebody an 3 option to or a chance to leave, I guess. 4 Q. Just so I have this clear, so he 5 stepped outside the doorway, his tone was the 6 same as it was before, and then a couple 7 minutes passed after that? 8 A. Maybe. Maybe a couple minutes 9 tops. 10 Q. Then Ms. Adams asked Mr. Cannon-El 11 to clock out and leave the premises? 12 A. Yes. 13 Q. Then a couple minutes passed after 14 that, correct? 15 A. Maybe five minutes after her asking 16 until the Cops were called, from the original 17 asking to the time she called. 18 Q. Then Ms. Adams said she was going 19 to count to three and call the Police if he 20 wasn't gone? 21 A. Yes. 22 Q. And she said, "One," and 23 Mr. Cannon-El finished counting, "Two, three"? 24 A. Yes. 25 Q. Was he looking right at her when he</p>	<p>1 understand. 2 Q. When all this was happening, 3 Ms. Adams was still in her office with the desk 4 between her and Mr. Cannon-El, correct? 5 A. As far as I'm concerned, yes. 6 Between me, John Poff and a desk. 7 Q. And she was still behind her desk? 8 A. I believe. 9 Q. And that was what you told the 10 committee? 11 A. I believe. 12 Q. And then Ms. Adams picked up the 13 phone to make calls? 14 A. Yes. 15 Q. That's when you left, correct? 16 A. No. I was the last person to 17 leave. So she made phone calls. I believe, 18 again, Will, then John, and then myself and 19 Deanna were pretty much in there. I said, 20 "Sorry" and kind of walked away. 21 Q. Did you ever see Mr. Cannon-El on 22 his phone? 23 A. I don't know. I mean, at some 24 point he made a phone call. 25 Q. But you never saw him?</p>
Page 246	Page 248
<p>1 said it? 2 A. I presume. I don't know. I don't 3 think he was staring out in space. I presume 4 he was talking to her. 5 Q. He still didn't move? 6 A. He was out of the office. He 7 wasn't towards her. 8 Q. He stood where he was? 9 A. Yes. 10 JUDGE GOLLIN: You were sitting, 11 and he was behind you? 12 THE WITNESS: Yes. 13 JUDGE GOLLIN: Did you turn and 14 look at him? 15 THE WITNESS: I'm sure when two 16 people are talking -- whether he took steps 17 back in the direction or stepped out of -- 18 that's what he's asking, right? 19 JUDGE GOLLIN: He was behind you? 20 You're saying when the exchange 21 started, you turned your body so you could 22 watch both of them? 23 THE WITNESS: Yes. I'm sorry. 24 JUDGE GOLLIN: You don't have to 25 apologize. I want to make sure that I</p>	<p>1 A. I don't know. I mean, I don't. 2 That's not -- no. 3 Q. Then you testified you didn't 4 specifically recall Mr. Ackerson in the 5 hallway? 6 A. No, I don't recall. 7 Q. And so when you left, did you see 8 Mr. Cannon-El anywhere? 9 A. I'm sure on the way out we passed. 10 Where I seen him -- I mean, whether he was in 11 the hallway or whether he was in the little 12 landing or he was outside, I'm not entirely 13 sure. 14 Q. So you don't know where 15 Mr. Cannon-El went after you left? 16 A. No, no, no, not specifically. 17 Q. He could have stayed in the HR 18 hallway and you do not know any difference? 19 A. No. 20 MS. MURAROVA: Objection. Calls 21 for speculation. 22 JUDGE GOLLIN: He's probing his 23 memory on cross-examination, which he's allowed 24 to do. A little early objection. 25 A. I don't recall seeing him in there.</p>

62 (Pages 245 to 248)

Page 249	Page 251
<p>1 Technically I guess he could be there, but I 2 didn't see him. 3 Q. And I think you testified you were 4 already across the street by the time the 5 Police came? 6 A. Yeah, yeah. 7 Q. How long had you been across the 8 street when the Police came? 9 A. Not long. Maybe another five, ten 10 minutes tops. They're pretty fast. 11 Q. I guess ten minutes, it depends on 12 how you're feeling, whether they're fast or 13 slow. 14 A. Fair enough. 15 Q. And Mr. Poff left before you? 16 A. Yes. 17 Q. And was Ms. Adams still somewhere 18 in or near her office? 19 A. Yeah, like I said, I left, and she 20 was still in the office when I left. 21 Q. She wasn't in the lobby? 22 A. Not that I recall, no. 23 Q. Okay. 24 A. Or at least at that time. 25 Q. Isn't it true that when you first</p>	<p>1 probing the Witness is that Mr. Cannon was 2 angry at the world, thought that people were 3 out to get him, and so I believe that's 4 relevant. 5 JUDGE GOLLIN: Is that something 6 that he shared at some point during the 7 investigation? 8 MR. MARTIN: That he told me that. 9 JUDGE GOLLIN: I don't think that's 10 relevant. 11 MR. MARTIN: Okay. 12 JUDGE GOLLIN: His subjective view 13 of the Charging Party is not going to help me 14 decide the case. If he wants to go through -- 15 you're not going to raise your hand. 16 THE WITNESS: I never said that. 17 JUDGE GOLLIN: You need to not 18 speak unless you have a question raised of you. 19 That's the last time I'm going to tell you. 20 THE WITNESS: All right. 21 JUDGE GOLLIN: So there's no 22 relevance to this. If you want to have him go 23 through what was discussed and what he reported 24 during the course of the investigation, that's 25 fine. But I don't see his subjective view of</p>
Page 250	Page 252
<p>1 started working at Meyer Tool, you didn't like 2 Mr. Cannon-El very much? 3 MS. MURAROVA: Objection. 4 JUDGE GOLLIN: What's the 5 relevance? 6 THE WITNESS: Yeah, objection. 7 JUDGE GOLLIN: You don't need to 8 worry about making objections. That's not your 9 job. 10 So what is the relevance of the 11 relationship between these two? 12 MR. MARTIN: The reason that he 13 didn't like Mr. Cannon is because he was angry, 14 and Mr. Cannon has testified that he wasn't. 15 THE WITNESS: Is there any 16 documentation that says that? 17 JUDGE GOLLIN: You need to keep 18 your answers to questions that are asked of 19 you, okay? 20 So I don't see the relevance of 21 this Witness' past with the Charging Party to 22 be relevant. 23 MR. MARTIN: Yeah, my argument is 24 that Mr. Cannon has testified that he was a 25 calm person, and one of the reasons that I'm</p>	<p>1 the Charging Party to be relevant. 2 Q. Mr. Bauer, didn't you tell the 3 committee that you, in fact, did not like 4 Mr. Cannon until he changed? 5 A. I don't know. 6 Q. You don't know? 7 You could have, but you don't 8 remember? 9 A. I don't recall. 10 Q. Isn't it true that in your 11 experience with Meyer Tool and observations at 12 Meyer Tool, that when employees have problems 13 with managers, that Meyer Tool tries to move 14 them to try to find a good fit for them? 15 A. I don't know. 16 Q. You didn't tell me that? 17 A. I don't know. 18 Q. All right. So after the incident 19 you were interviewed by the Investigation 20 Committee, correct? 21 A. Uh-huh. 22 Q. And you discussed both the May 25 23 and 26 incidents? 24 A. Yes, sir. 25 Q. They listened to you?</p>

63 (Pages 249 to 252)

Page 253	Page 255
<p>1 A. Yes, sir. 2 Q. And did they ask you questions? 3 A. Yes, sir. 4 Q. Do you still talk to Mr. Cannon 5 about once a month? 6 A. Maybe once a month, maybe once 7 every other month, make sure he's still alive 8 and doing okay. 9 Q. Did you ever discuss your testimony 10 with Mr. Cannon? 11 A. No. 12 Q. Do you consider Mr. Cannon a 13 friend? 14 JUDGE GOLLIN: Why do I need to 15 know that? 16 MR. MARTIN: Bias. 17 JUDGE GOLLIN: Well, you've asked 18 him about his recollection. You've asked him 19 about whether he discussed it. You asked him 20 how frequently he talks to him. I think you 21 can move on beyond this. 22 MR. MARTIN: Okay. 23 JUDGE GOLLIN: Whether they're 24 friends is irrelevant. Either the Witness is 25 going to be found credible on his testimony or</p>	<p>1 A. Yeah, somewhere around there, one 2 to three months. 3 Q. You told us you were moved because 4 of lack of work? 5 A. Yes. 6 Q. Do you have any evidence to dispute 7 that there was a lack of work in your area? 8 A. Yeah, because the day shift guys 9 didn't have to leave, and they were getting 48 10 hours, and I had to go across the street. 11 Q. Does that mean that nightshift 12 could have had a lack of work? 13 A. Yes. 14 How is there four people that can 15 get work on one shift and I'm one person in the 16 same area and I can't get it? 17 That's bias right there. 18 Q. I'm trying to understand. 19 A. There's four people in my 20 department. The EDM operating area, there's 21 four people. 22 Q. Isn't it possible that the day 23 shift folks EDM work and there's not enough 24 work for the nightshift? 25 A. No. There's always something to do</p>
Page 254	Page 256
<p>1 he's not. 2 MR. MARTIN: Okay. I feel that 3 that goes to that. And I understand and accept 4 your ruling on that. 5 Q. You don't speak to Ms. Adams 6 outside of work, correct? 7 A. No. 8 Q. Okay. When you were testifying 9 about various incidents that happened on 10 May 26, where Mr. Cannon was, for example, a 11 lot of times you would say, "I think." 12 Does that mean you're not sure? 13 A. That's my opinion. That's why I 14 say, "I think," because it's my account of the 15 event. 16 Q. Okay. So, I mean, I guess I'm 17 asking, are you leaving room to where your 18 account may be incorrect? 19 A. No. I'm just saying that's my 20 account. Somebody else's account might be a 21 little different than my account because we're 22 all individuals. 23 Q. You talked about being moved to 24 another area, I think you said a month -- two 25 to three months after this incident.</p>	<p>1 in our building, always something to do. 2 Q. I mean, are you speculating? 3 A. No, no. 4 Q. Okay. 5 A. We do in-house stuff for Paul 6 Rowland all the time. There is a neverending 7 supply of that work, neverending supply of that 8 work. 9 Q. Do you have any evidence that there 10 was work on nightshift not getting done at the 11 time that you were moved? 12 A. That's not my concern. Above my 13 pay rate. 14 Q. So you didn't have any evidence of 15 that? 16 MS. MURAROVA: Objection. Asked 17 and answered. 18 JUDGE GOLLIN: He didn't answer 19 that. He said it was above his pay grade. So 20 does he have any evidence that there was a lack 21 of work is the question that's asked. 22 THE WITNESS: The people -- 23 JUDGE GOLLIN: The question is, do 24 you know whether or not there was work 25 available?</p>

64 (Pages 253 to 256)

Page 257	Page 259
<p>1 THE WITNESS: I guess not.</p> <p>2 Q. You received the same pay, correct?</p> <p>3 A. From going to the other area?</p> <p>4 Q. Yes.</p> <p>5 A. Yes, yes.</p> <p>6 Q. And you were moved back after a</p> <p>7 month or so?</p> <p>8 A. A few months, yes, or upwards. I</p> <p>9 don't know.</p> <p>10 Q. The vacation day issue, do you have</p> <p>11 any evidence other than your belief?</p> <p>12 A. No. It's on the -- at least it is</p> <p>13 on my labor voucher sheet. They keep copies of</p> <p>14 the labor voucher. It says they accidentally</p> <p>15 deleted it.</p> <p>16 Q. They admit it was accidentally</p> <p>17 deleted?</p> <p>18 A. When they called, "Dude, where were</p> <p>19 you the other day," "You were no call/no show,"</p> <p>20 and you have to remind your supervisor that you</p> <p>21 had a conversation, and other people were</p> <p>22 around the conversation about the day being</p> <p>23 off.</p> <p>24 Q. They fixed it, correct?</p> <p>25 A. Yeah, yeah, I would hope.</p>	<p>1 Q. Did you feel that it was -- what</p> <p>2 you heard -- based on what you heard --</p> <p>3 A. No, it --</p> <p>4 MR. MARTIN: Objection.</p> <p>5 JUDGE GOLLIN: You're asking, three</p> <p>6 layers of hearsay, if he thought it was</p> <p>7 accurate?</p> <p>8 MS. MURAROVA: I'm asking him if he</p> <p>9 thought, based on what he thought, it was</p> <p>10 appropriate.</p> <p>11 JUDGE GOLLIN: His personal opinion</p> <p>12 doesn't matter to me.</p> <p>13 Q. But people did tell you about it?</p> <p>14 JUDGE GOLLIN: It's not relevant.</p> <p>15 It's a subjective view. It's not relevant.</p> <p>16 Q. I'd like to ask you questions about</p> <p>17 this statement that you wrote for the</p> <p>18 investigative meeting. On the top it says</p> <p>19 "5-27-16."</p> <p>20 Is that the date that you wrote it?</p> <p>21 A. Yes. That's the date, yes.</p> <p>22 Q. And did you give this to the</p> <p>23 Investigative Committee?</p> <p>24 Do you remember if you gave this to</p> <p>25 the Investigative Committee before or after</p>
Page 258	Page 260
<p>1 Q. You got the vacation day credited?</p> <p>2 A. Yes.</p> <p>3 Q. All it took was a conversation?</p> <p>4 A. No. I mean, yes. They're helpful</p> <p>5 in that regard, yes.</p> <p>6 Q. You have no evidence that the</p> <p>7 vacation day was deleted -- it was anything</p> <p>8 other than an accident, correct?</p> <p>9 A. Again, that would be speculation,</p> <p>10 so, no, I have no evidence of that.</p> <p>11 MR. MARTIN: That's all we have.</p> <p>12 JUDGE GOLLIN: Redirect?</p> <p>13 MS. MURAROVA: Yes.</p> <p>14 - - - - -</p> <p>15 REDIRECT EXAMINATION</p> <p>16 BY MS. MURAROVA:</p> <p>17 Q. You testified that you were not</p> <p>18 there for the conversation on May 25 between</p> <p>19 Gordy McGuire and Mr. Cannon-El, correct?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Did anyone tell you what happened</p> <p>22 between Mr. Cannon-El and Mr. McGuire that day?</p> <p>23 A. Pretty much everybody else that was</p> <p>24 in the break room pretty much said what</p> <p>25 happened.</p>	<p>1 your interview?</p> <p>2 A. I'm not 100 percent sure.</p> <p>3 Q. At your investigative interview,</p> <p>4 then -- in your investigative interview, what</p> <p>5 did you tell them where Mr. Cannon-El was or</p> <p>6 whether -- what his motions were when he was</p> <p>7 first asked to leave?</p> <p>8 A. Like specifically what he -- I</p> <p>9 mean, he stepped out of the door.</p> <p>10 Q. Did you tell them that?</p> <p>11 A. I believe I did.</p> <p>12 Q. Okay. So there were some questions</p> <p>13 about how much time it took -- how much time</p> <p>14 went by between when Mr. Cannon-El was first</p> <p>15 asked to leave and when the Police were called,</p> <p>16 and you said maybe five minutes tops; is that</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. Is it possible that it could have</p> <p>20 been a minute?</p> <p>21 A. Very possible. Like I said, it</p> <p>22 went really quick.</p> <p>23 Q. Do you ever speak with day shift</p> <p>24 employees?</p> <p>25 A. Uh-huh, every day.</p>

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<p>1 Q. Did you ever speak with them about 2 whether they had work after May 26? 3 MR. MARTIN: Objection. It's being 4 offered for the truth of the matter. 5 JUDGE GOLLIN: Is it being offered 6 for the truth of the matter asserted? 7 What's it being offered for? 8 MS. MURAROVA: I'll withdraw the 9 question. 10 Just if you give me a moment to 11 look at my notes. 12 Q. I'd like to re-ask -- well, just a 13 moment. 14 JUDGE GOLLIN: Take your time. 15 Q. Do you remember being asked if 16 there was any evidence that there was still 17 work available for you to do in the development 18 area? 19 A. I'm not 100 percent sure. 20 Q. But you remember being asked that 21 question a moment ago? 22 A. Yes. 23 Q. And would you consider a 24 conversation with employees telling you 25 something like that being evidence?</p>	<p>1 In the statement you gave them, you 2 wrote "None of the words that were exchanged 3 were hurtful or fighting"; is that right? 4 A. Yeah. 5 Q. And you wrote that Ms. Adams 6 apologized to you for the situation? 7 A. Yeah. 8 JUDGE GOLLIN: Well, he said, 9 "apologized for the situation." 10 THE WITNESS: I think we both just 11 kind of looked at each other like, "Sorry." 12 Like I said, it wasn't -- just kind of 13 bewildered at the end. It was kind of like a 14 whole -- just a weird, weird, weird event. 15 JUDGE GOLLIN: Do you recall who 16 said sorry first? 17 THE WITNESS: It might have been 18 me. 19 JUDGE GOLLIN: And then you recall 20 her saying the word to you, "Sorry"? 21 THE WITNESS: I don't know. I 22 mean, I believe. I don't know. I don't want 23 to say yes or no. I don't know. 24 JUDGE GOLLIN: Okay. 25 Q. I do have one other question.</p>
Page 262	Page 264
<p>1 A. Yes. 2 Q. Did you have any conversations like 3 that? 4 A. I talked to day shift people all 5 the time. They didn't understand why I had to 6 go across the street. 7 MR. MARTIN: I object still. If 8 they didn't know why he had to go across the 9 street, it's being offered for the truth of the 10 matter. 11 JUDGE GOLLIN: I mean, I don't 12 understand -- I don't view this as being 13 particularly relevant, but it doesn't sound 14 like what he's asking other employees who are 15 not managerial as to whether there was work 16 available or not is being offered for the truth 17 of the matter asserted, so I'm going to 18 overrule the objection. 19 Q. You can answer. 20 A. I mean, yeah, I talked to day shift 21 all the time, and there was always some sort of 22 work that -- I could have meandered some sort 23 of time to stay on my side of the street. 24 Q. Okay. I'd like to talk about this 25 May 27 statement one more time.</p>	<p>1 You mentioned that Mr. Poff was 2 your cousin; is that right? 3 A. Yes. 4 Q. Is that a first cousin? 5 A. He's like a second or third cousin. 6 It's my mom's cousin's kid. 7 Q. Okay. And did you talk to Mr. Poff 8 about your testimony here today? 9 A. No. 10 Q. Did you see Mr. Cannon-El escorted 11 out by anyone? 12 A. No. 13 MS. MURAROVA: I have no further 14 questions. 15 MR. MARTIN: Nothing. 16 JUDGE GOLLIN: All right. You're 17 free to go. 18 MS. GRUBB: One? 19 JUDGE GOLLIN: Yes. 20 - - - - - 21 BY MS. GRUBB: 22 Q. Did you tell the committee about 23 the air quality? 24 A. I don't know. I don't recall. 25 Q. Okay. And you testified that</p>

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<p>1 Ms. Adams was giving Mr. Cannon-El advice. 2 What type of advice? 3 A. I think she was just trying to give 4 him nonlegal/legal advice, basically like, 5 "This is what you should do instead," or, 6 "Don't do this." Again, specifics, I'm not 7 100 percent sure. I don't know exactly. 8 MS. GRUBB: Okay. Thank you. 9 JUDGE GOLLIN: All right. The 10 Witness is excused. 11 You can leave the documents there. 12 Thank you. 13 Do you have another Witness? 14 MS. MURAROVA: Yes. We're going to 15 call Mr. Poff. And I'll step out and get him. 16 JUDGE GOLLIN: We can go off the 17 record for a moment. 18 ----- 19 (Recess taken.) 20 ----- 21 22 23 24 25</p>	<p>1 A. Meyer Tool, Incorporated. 2 Q. How long have you worked for Meyer 3 Tool? 4 A. As of February this year, nine 5 years. 6 Q. So you started in -- 7 A. February 12, 2008. 8 Q. What do you do for Meyer Tool? 9 A. In technical terms, I'm a 10 machinist. 11 Q. What does that entail? 12 A. Operating and setting up machines, 13 creating, locating and designing processes. 14 Q. Is there a particular department 15 that you work in? 16 A. Technically, I mean -- at one point 17 in time it was called developmental. Now it's 18 called NPI. 19 Q. It's the same department? 20 A. Yes. 21 Q. Just a different name? 22 A. Yes. 23 Q. What does NPI stand for? 24 A. New Production Introduction. 25 Q. Is that the same department you</p>
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<p>1 (Whereupon, JOHN E. POFF, II, was called 2 as a Witness by and on behalf of the General 3 Counsel and, after having been duly sworn, was 4 examined and testified as follows:) 5 JUDGE GOLLIN: Can you please have 6 a seat? 7 Flip those pages over. 8 Please state and spell your last 9 name for the record. 10 THE WITNESS: My name is John 11 Edward Poff, II. It's J-o-h-n, E-d-w-a-r-d, 12 P-o-f-f. 13 JUDGE GOLLIN: Go ahead. 14 ----- 15 DIRECT EXAMINATION 16 BY MS. MURAROVA: 17 Q. Mr. Poff, are you here pursuant to 18 a Subpoena today? 19 A. Yes, ma'am. 20 Q. Did you participate in an NLRB 21 investigation into this matter? 22 A. Yes, ma'am. 23 Q. Was that pursuant to a Subpoena? 24 A. Yes, ma'am. 25 Q. Where are you employed?</p>	<p>1 worked in in May of 2016? 2 A. Yes, ma'am. 3 Q. Do you work full-time or part-time? 4 A. Full-time. 5 Q. What shift do you work? 6 A. Second shift, nightshift. 7 Q. What hours are those? 8 A. Technically 5:00 p.m. to four a.m. 9 Q. Okay. Is that the same shift you 10 were working in May, 2016? 11 A. Yes, ma'am. 12 Q. Who was your direct supervisor? 13 A. My direct supervisor was Rick 14 Ackerson. 15 Q. And was that the same in May, 2016? 16 A. Yes, ma'am. 17 Q. Do you know who Mr. Will Cannon-El 18 is? 19 A. Yes, ma'am, I do. 20 Q. Do you know, did he work on your 21 shift on May, 2016? 22 A. Yes, ma'am. 23 Q. Did he work in your department? 24 A. Yes, ma'am. 25 Q. Do you know who Mr. Chris Bauer is?</p>

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<p>1 A. Yes, ma'am, I do. 2 Q. Did he work on your shift in May, 3 2016? 4 A. Yes, ma'am. 5 Q. Did he work in your department? 6 A. Technically, yes, but not the same 7 cell. He worked in EDM. 8 Q. But he was in NPI? 9 A. Yes, ma'am. 10 Q. Do you know if he also worked 11 for -- well, I'll leave that. Scratch that. 12 I'd like to talk to you about 13 May 25, 2016. 14 Do you remember working that day? 15 A. If it was a workday, yeah, I was 16 working. 17 Q. Do you remember attending any 18 meetings on May 25, 2016? 19 A. Yes, ma'am. 20 Q. How did you find out about the 21 meeting? 22 A. I came in and my supervisor, Rick 23 Ackerson, informed me that we were having a 24 meeting in the break room. 25 Q. What time was that?</p>	<p>1 A. I mean, I've never heard that term 2 before that day. I've heard cell leader, 3 supervisor, but never go-to guy. 4 Q. Did Mr. Ackerson explain what a 5 go-to guy was at that meeting? 6 A. Well, the other part of the meeting 7 was for us to have questions about his role in 8 detail. 9 Q. So after he announced the go-to 10 guy, can you tell me what happened next after 11 that? 12 A. Well, I myself inquired what his 13 position is supposed to be as the go-to guy. 14 And he informed the room it was to make sure 15 basically everybody was doing their job, for 16 lack of a better term, a glorified baby-sitter. 17 So my direct question to him was 18 what his reporting role was. And he said that 19 we were to report to him, and not Huck Finn on 20 nights, where we had a meeting with the VP a 21 week prior and were told that Huck Finn was the 22 supervisor of the campus on the nightshift. 23 JUDGE GOLLIN: When you say, 24 "glorified baby-sitter," was that what 25 Mr. Ackerson said or is that your</p>
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<p>1 A. 5:00, start of the shift. 2 Q. Did you attend that meeting? 3 A. Yes. But we didn't have the 4 meeting until about 6:00. 5 Q. Where did it occur? 6 A. In the break room. 7 Q. Who was at the meeting? 8 A. Me, Rick Ackerson, Chris Bauer, 9 Will Cannon-El, Steven Paul Korb, Glenn Young, 10 Junior, Mark Metcalf. And I don't recall if 11 Burt Combs was there or not. 12 Q. Besides Mr. Cannon-El, who are 13 those people? 14 A. All the people that are employees 15 of the NPI Department. 16 Q. Well, I guess I'll just ask you, 17 how did the meeting start? 18 A. We were informed that Mark Metcalf 19 was taking over as a position of being a go-to 20 guy. 21 Q. Who told you that? 22 A. Rick Ackerson. 23 Q. And after he said that -- I guess 24 I'll ask, is that a position that you're 25 familiar with?</p>	<p>1 characterization? 2 THE WITNESS: That's my 3 characterization. 4 JUDGE GOLLIN: Okay. And you're 5 new and you haven't heard my speech, but I'm 6 going to tell you, I really just want you to 7 testify about what was said and what you heard, 8 not how you characterized things. 9 THE WITNESS: Okay. 10 JUDGE GOLLIN: Thank you. 11 Q. Did Mr. Ackerson respond to your 12 concern? 13 A. Yes. He said, "That's what I have 14 planned. That's how it's going to work. If 15 you don't like it, there's the door." 16 Q. What happened after that? 17 A. If memory serves me correct, that's 18 when Chris and Will Cannon -- well, Chris Bauer 19 and Will Cannon both started asking their 20 questions, if Mark was going to help Chris with 21 EDM, when he didn't know anything about his 22 job. 23 Q. You said Chris asked that? 24 A. Yeah. 25 Q. What was Will asking?</p>

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<p style="text-align: right;">Page 273</p> <p>1 A. Will was asking if Mark Metcalf was 2 going to perform the same duties that I had 3 already been doing on that shift, which was 4 training them and showing them how the 5 processes worked. 6 Q. Did Mr. Ackerson respond to those 7 questions? 8 A. I don't know what his response to 9 those questions was because at that point is 10 when I was walking out the door. 11 Q. When you said you walked out the 12 door, where did you go? 13 A. To the HR Department. 14 Q. And did you speak with anyone 15 there? 16 A. Yes. I spoke with Ms. Deanna 17 Adams. 18 Q. And what did you tell her? 19 A. I informed her my concern was that 20 my supervisor was telling me to report to Mark 21 Metcalf and not to report to who our VP at the 22 company told us was campus supervisor on 23 nights, which was Huck Finn, and my only 24 concern was insubordination for him telling me 25 to report to somebody else when he doesn't have</p>	<p style="text-align: right;">Page 275</p> <p>1 A. I mean, it's -- I would say a 14 by 2 16 foot room, vending machines along the back 3 wall, glass windows along the front wall. 4 Q. Where do the glass windows look out 5 to? 6 A. To the central area of our 7 building. If you walk in the front door of our 8 building, you can see the glass windows. 9 Q. As you're approaching the break 10 room, can you see what -- 11 A. Yes, it's a clear view. 12 Q. That day, when you were 13 approaching, could you see what was happening 14 inside even before you got in? 15 A. Yes, ma'am. 16 Q. What did you see when you returned 17 to the room? 18 I guess, as you were approaching, 19 tell me what you saw even before you got in. 20 A. When I was approaching the room, 21 Gordy McGuire was leaning over the table and 22 yelling at Mr. Will Cannon. Obviously prior to 23 opening the door, I wasn't sure what the 24 argument was about. As I opened the door, I 25 intentionally spoke to bring Mr. Gordy McGuire</p>
<p style="text-align: right;">Page 274</p> <p>1 supersede powers over the VP of our company. 2 Q. Did Ms. Adams address your concern? 3 A. She actually got on the phone with 4 Mr. Gordy McGuire, who Mr. Gordy McGuire, to 5 the best of my knowledge, informed her that he 6 was on the way to that meeting to handle it 7 personally. 8 Q. When you say, "to the best of my 9 knowledge" that he told her that, how do you 10 know that? 11 A. Well, Ms. Deanna told me that Gordy 12 McGuire was headed on his way over to meeting, 13 and that I should go over there and voice my 14 concern to him directly. 15 Q. What did you do then? 16 A. I returned back to the meeting. 17 Q. How long were you in Ms. Adams' 18 office? 19 A. I mean, chronologically I can't 20 give you an exact time frame, but I would say 21 no less than five minutes, no more than ten 22 minutes. 23 Q. Can you describe what the break 24 room where you were having the meeting looks 25 like?</p>	<p style="text-align: right;">Page 276</p> <p>1 out of Will Cannon's face, to interrupt the 2 whole issue that was going on there, asking him 3 what was more important, for me to report to 4 Huck Finn on nights or to report to Mark 5 Metcalf on nights, at which point in time Gordy 6 McGuire responded, "Huck Finn, he's campus 7 supervisor, that is my ruling, that's how it 8 goes." 9 I then reported to Mr. Gordy 10 McGuire that he needed to explain that detail 11 to Rick because Rick was telling us otherwise. 12 Q. You said you saw Gordy yelling at 13 Will Cannon-El. 14 Was Will sitting or standing? 15 Where was he? 16 A. Will was sitting on the far side of 17 the table. As soon as I walked in the room, it 18 would be the furthest position away, with Gordy 19 McGuire leaning over Will Cannon. 20 Q. How close was Gordy McGuire to 21 Mr. Cannon-El? 22 A. If he would have leaned in, they 23 could have made out, that's how close they 24 were. 25 JUDGE GOLLIN: If you had to</p>

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<p style="text-align: right;">Page 277</p> <p>1 estimate them at a distance, how far would you 2 estimate that to be? 3 THE WITNESS: No more than a foot 4 and a half away. 5 JUDGE GOLLIN: Okay. 6 Q. Did you see Will make any movements 7 while he was being yelled at by Mr. McGuire? 8 A. The only motion I seen was Will 9 backing up, like leaning back in the chair. 10 Q. Okay. So then you said Mr. McGuire 11 said that his final decision was that you are 12 to report to Huck Finn. 13 What happened after that? 14 A. After that, Gordy McGuire and Rick 15 Ackerson got into a debate because Rick said 16 that he couldn't have Huck Finn controlling 17 shifting or personnel allocation in the shop, 18 at which point in time Gordy McGuire informed 19 Mr. Ackerson that that was not the case, that 20 Huck Finn's job was to communicate any issues 21 the nightshift had with the day shift because 22 apparently there had been issues reported prior 23 that weren't making the light at day shift. 24 Q. I'd like to back up and ask you a 25 couple more questions about what happened when</p>	<p style="text-align: right;">Page 279</p> <p>1 repeat it, but he mentioned him leaving his 2 work area. 3 Do you remember if Mr. Cannon-El 4 replied to that? 5 A. Yeah, Cannon said, "You're telling 6 me I'm not allowed to step outside to get a 7 breath of fresh air from time to time?" 8 Q. Did Mr. McGuire respond to that? 9 A. He said, "You're like everybody 10 else. The air you're breathing in this room is 11 just fine." 12 Q. Okay. Did anyone respond to that? 13 A. I responded with, "Well, if you 14 have that documentation, it sounds like it 15 would be safer on the MSDS description so we're 16 all aware of this, and not just sitting on your 17 desk so no one has access to it." 18 Q. Do you recall what Gordy's response 19 was? 20 A. Gordy's response was, "You'll have 21 access to what I feel you need to have access 22 to." 23 Q. What happened after that? 24 A. After that portion is when I 25 stepped back out of the fucking doorway and --</p>
<p style="text-align: right;">Page 278</p> <p>1 you first walked into the room. 2 Did you hear any of what 3 Mr. McGuire was yelling at Will Cannon-El 4 about? 5 A. To the best of my memory, when I 6 walked into the room, the argument they were 7 having had to do with air quality issues that 8 were going on in the shop and Gordy's concerns 9 with Mr. Cannon-El walking out the door with 10 about as much frequency as what the average 11 smoker had going on at the time. 12 MR. MARTIN: Objection. 13 Did he say, "as the average 14 smoker"? 15 JUDGE GOLLIN: Again, back to my 16 point of just going through what was said as 17 best as you can recall. 18 THE WITNESS: His exact phrasing 19 was, "I have a time punch that has you going 20 out the door 15 times in a shift." 21 Q. What was the tone of Mr. McGuire's 22 voice while he was -- 23 A. Agitated and aggravated. 24 Q. And so he said that -- what you 25 just said, that he has -- I'm not going to</p>	<p style="text-align: right;">Page 280</p> <p>1 Q. Let me interrupt you. 2 Was this conversation about the 3 air -- about leaving the workplace or air 4 quality, whatever you want to call it -- was 5 this before or after Mr. McGuire and 6 Mr. Ackerson got into the discussion between 7 themselves about Huck Finn? 8 A. Technically, it's all one scene. I 9 mean, it wasn't a one for one statement. I 10 don't know how to describe it. Multiple people 11 trying to talk at once. That's how it all 12 transpired at that point. 13 Q. Okay. When Mr. Cannon-El was 14 speaking, what was the tone of his voice? 15 A. I mean, Mr. Cannon-El was as 16 Mr. Cannon-El always is, calm and collected. 17 That's the way the man speaks. And I can tell 18 you, in the years that I've known Cannon, I've 19 never once heard -- 20 JUDGE GOLLIN: So the tone was calm 21 and collected during the conversation? 22 THE WITNESS: Yes, calm and 23 collected. 24 Q. Please only answer my question. 25 And you said at that point, during</p>

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<p>1 that conversation you -- after you added your 2 two cents, you left the room? 3 A. Uh-huh. 4 Q. Where did you go? 5 A. I stood right by the machines which 6 was directly outside the door of the break 7 room. 8 Q. Why did you leave? 9 A. Because I'm not going to stand 10 there while people raise their voice in a tone 11 of argument. 12 Q. Before this meeting have you ever 13 raised issues about air quality to management 14 before? 15 A. Yes, ma'am. 16 Q. I guess, who did you raise those 17 to? 18 A. To my direct supervisor, Rick 19 Ackerson. 20 And at other times we were told 21 that any concerns we had, to go to HR and 22 report it. And multiple times I had gone to HR 23 before, and we were always told we needed 24 Christine Steele to be there to raise 25 complaints to.</p>	<p>1 break room. So at maximum, ten more minutes 2 beyond that point. 3 Q. Well, I guess what happened when 4 everyone was exiting? 5 Did you hear anything? 6 A. Yeah, as they were exiting, Will 7 made a comment about it not being cool for the 8 VP of a company to get in somebody's face, at 9 which point in time Gordy turned to Rick and 10 asked Rick, "Did I get in his face?" 11 And Rick replied, "No." 12 And Will said, "Oh, I see you guys 13 can work together just fine." 14 Q. Did you hear any other conversation 15 between Mr. Ackerson and Mr. McGuire? 16 A. At that point? 17 Q. At any point. 18 A. That was the last conversation that 19 I heard after everyone stepped outside. 20 Q. So after the meeting was over, did 21 you speak with Mr. Ackerson -- 22 A. Yes. 23 Q. -- or Mr. McGuire? 24 A. Mr. Ackerson accused me of 25 brainwashing the nightshift employees, at which</p>
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<p>1 Q. When you raised the concerns to 2 Mr. Ackerson, do you recall when that was in 3 relation to May, 2016? 4 A. That was actually when they first 5 converted the machines like it is now. 6 Q. When was that? 7 A. Technically it was at the beginning 8 of that year, when Mark Metcalf first came to 9 the area. 10 Q. And did Mr. Ackerson respond? 11 How did Mr. Ackerson respond to 12 your concern? 13 A. "If there was really concern for 14 it, we would have that device on it." 15 And I pointed out that every one of 16 those machines on the converter has that on 17 there, which he responded, "It's a very 18 expensive piece of machinery, we have to 19 justify it before we get it." 20 Q. So you said you stood by the door 21 after you left the meeting, you stood near the 22 door. 23 And how long did you stand out 24 there? 25 A. Until everybody exited -- left the</p>	<p>1 point in time I replied, "If I brainwashed 2 them, it comes with the training that you told 3 me to give them." 4 Q. Was anything else said? 5 A. No. I mean, that statement was 6 made to another employee, who then came to me 7 and said that Rick Ackerson said the same thing 8 to them. 9 Q. But at that time, that was the end 10 of the conversation? 11 A. Yes. 12 Q. Okay. That day did you receive any 13 write-up, discipline or talking to at all about 14 leaving the meeting? 15 A. That very day, no. 16 Q. Did you ever talk to any coworkers 17 about what happened at that meeting after the 18 meeting? 19 A. I mean, you would have to define 20 "talked to them." 21 Q. Okay. I guess I'll rephrase. 22 Did you ever discuss with anyone 23 what happened at the meeting afterwards? 24 A. I discussed the fact that it's 25 inappropriate for the way that they treated us</p>

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<p style="text-align: right;">Page 285</p> <p>1 and talked to us, and that I planned on filing 2 a complaint over the way we were treated. 3 Q. Who did you have that discussion 4 with? 5 A. Technically, the first was Chris 6 Bauer, and then after that it was Mr. Will 7 Cannon. 8 Q. So when you spoke with Mr. Chris 9 Bauer, what was the -- I guess, what did you -- 10 can you tell me more about what -- do you 11 remember where you were? 12 Was it in person? 13 A. My conversation with Chris Bauer 14 took place outside of the shop by the smoking 15 area outside of our door. I was explaining to 16 Chris that I did not like the way they were 17 talking to us or the way they were speaking to 18 us, and that it's inappropriate that they treat 19 us like property instead of people that should 20 be respected, at which point Chris said that he 21 had other issues that came up in the past. I 22 never got the details of that. 23 Then Will came up, and Will was 24 standing there, and I informed Will that we 25 were going to go and write a complaint, and</p>	<p style="text-align: right;">Page 287</p> <p>1 supervisor quoted, that's none of my damn 2 business. 3 Q. And you're saying this was an 4 extension of sort of this ongoing issue? 5 A. Well, ultimately, like I can't -- I 6 don't want to speculate, but in my opinion, 7 that's the reason why they were bringing forth 8 the Mark Metcalf guy to the nightshift, was to 9 quiet this up, because I started making 10 complaints to Huck Finn. 11 MR. MARTIN: Objection. 12 JUDGE GOLLIN: Well, you asked him 13 a question as to his thoughts, and the Witness 14 was responding to your question as a personal 15 normally would. But if you're interested in 16 what a person actually said, which is what I'm 17 interested in, then that's what you ask him. 18 Q. When you spoke with Mr. Cannon-El 19 and Mr. Bauer, did you discuss the treatment of 20 Mr. Cannon-El specifically? 21 A. I mean, I brought it up in 22 conversation, that I didn't find it as 23 appropriate and that I was going to raise a 24 concern about it whether he did or not. 25 JUDGE GOLLIN: So when you're</p>
<p style="text-align: right;">Page 286</p> <p>1 Will said, yeah, he already planned to. 2 Q. Did the three of you talk about 3 when -- 4 A. I messaged Cannon later and told 5 him that me and Chris talked about going over 6 at 4:00 the day before our shift, and if he 7 wanted to go, he was more than welcome to join 8 us. 9 Q. Did Mr. Cannon-El respond to you? 10 I'm sorry, you might have already 11 answered that. 12 So what were your concerns about 13 the meeting? 14 A. My concerns about the meeting 15 were -- I mean, I don't know how to say this, 16 coming off as speculation, but we had issues on 17 nightshift prior to any of this happening. We 18 tried to make concern of our issues the night 19 prior, such as day shift employees throwing 20 accusations about nightshift employees. We 21 provided data and proof that these accusations 22 were not correct. But yet, we were publicly 23 berated by our supervisor, but there was no 24 beratement or questions done to the day shift. 25 When I questioned my supervisor, my</p>	<p style="text-align: right;">Page 288</p> <p>1 talking about this, you're talking about when 2 the three of you were outside following this 3 meeting on the 25th, you brought this up to 4 Mr. Poff and -- 5 THE WITNESS: That conversation was 6 solely between me and Mr. Cannon-El. At that 7 point Chris Bauer had walked away. I told him 8 if he didn't have an issue with it, I did, that 9 I found it very disrespecting, that he didn't 10 have to put up with it alone, let alone have it 11 happen to anybody else. 12 JUDGE GOLLIN: Okay. 13 Q. And you said you decided to -- what 14 was the resolution of that discussion you had? 15 A. That we were all going to go there 16 at 4:30 the next day before the start of our 17 shift to file a complaint. 18 Q. Did you go file your complaint the 19 next day? 20 A. We attempted to. I mean, as far as 21 I know, they accepted it because it showed up 22 here, so -- 23 Q. What time did you arrive to the 24 company's facility the next day? 25 A. Right about 4:30.</p>

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<p>1 Q. Where did you go when you arrived?</p> <p>2 A. The HR Department.</p> <p>3 Q. Did you speak with anyone</p> <p>4 specifically?</p> <p>5 A. We went down to ask if we could</p> <p>6 file a complaint. We were told that we had to</p> <p>7 talk to Christine Steele.</p> <p>8 Q. Who were you told this by?</p> <p>9 A. Tina Loveless. Tina Loveless then</p> <p>10 informed us that if we wanted to, we could</p> <p>11 leave a statement with them, and then Christine</p> <p>12 would get it when she returned.</p> <p>13 Q. What, if anything, did you tell</p> <p>14 Tina about the substance of your complaint?</p> <p>15 A. At that point in time I told her</p> <p>16 that we had a complaint against one of the VPs</p> <p>17 of the company.</p> <p>18 Q. Okay. And that's when she told you</p> <p>19 to leave a statement for --</p> <p>20 A. She told us that we were welcome to</p> <p>21 leave a statement if we wanted to for</p> <p>22 Christine, and then she would handle it.</p> <p>23 JUDGE GOLLIN: What's Christine's</p> <p>24 last name?</p> <p>25 THE WITNESS: Steele, S-t-e-e-l-e.</p>	<p>1 recorded on May 26, the day the incident took</p> <p>2 place.</p> <p>3 Q. So that May 25, that's a typo or</p> <p>4 are you just saying -- I guess, why does it say</p> <p>5 "5-25" at the top?</p> <p>6 A. I don't exactly know that.</p> <p>7 Q. Okay. But this is what you wrote</p> <p>8 on the 26th?</p> <p>9 A. This is what I wrote in the room</p> <p>10 there.</p> <p>11 Q. Okay. And so what did you do when</p> <p>12 you were done writing this statement?</p> <p>13 A. I got up to go give my statement to</p> <p>14 Tina Loveless because she was the one who told</p> <p>15 me I could give a statement, at which point</p> <p>16 Tina was busy, so I turned and looked and Chris</p> <p>17 Bauer was sitting in the office with Deanna,</p> <p>18 and I asked if I could drop it off there, and</p> <p>19 she said yes, and let me in.</p> <p>20 Q. Do you know where Will Cannon-El</p> <p>21 was at this time?</p> <p>22 A. Writing out his statement.</p> <p>23 Q. When you left the training room,</p> <p>24 Mr. Cannon-El was still in there?</p> <p>25 A. Yes.</p>
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<p>1 Q. What did you do after that?</p> <p>2 A. We all went into the training room</p> <p>3 that's in the HR area and began to write out</p> <p>4 our statements.</p> <p>5 Q. When you say, "We," who are you</p> <p>6 referring to?</p> <p>7 A. Me and Chris Bauer and William</p> <p>8 Cannon.</p> <p>9 Q. And did you write a statement?</p> <p>10 A. Yes, ma'am.</p> <p>11 -----</p> <p>12 (Thereupon, General Counsel</p> <p>13 Exhibit 8 was marked for purposes of</p> <p>14 identification.)</p> <p>15 -----</p> <p>16 Q. I'm going to show you what was</p> <p>17 marked as General Counsel Exhibit 8.</p> <p>18 MS. MURAROVA: We had an "8," but</p> <p>19 it was withdrawn, so I'm going to renumber this</p> <p>20 "8."</p> <p>21 Q. Mr. Poff, do you recognize this</p> <p>22 document that I showed you?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. What is it?</p> <p>25 A. That is the statement which I</p>	<p>1 Q. So you went and saw Mr. Bauer was</p> <p>2 in Deanna's office, and what did you do?</p> <p>3 Did you join them?</p> <p>4 A. I dropped my statement off and</p> <p>5 then, yeah, I participated in the conversation.</p> <p>6 Q. Did you give them this?</p> <p>7 A. Yes.</p> <p>8 Q. What did you do with the statement?</p> <p>9 A. I gave that to Ms. Deanna.</p> <p>10 MS. MURAROVA: I'd like to move for</p> <p>11 the admission of General Counsel's Exhibit 8.</p> <p>12 JUDGE GOLLIN: Any objection?</p> <p>13 MR. MARTIN: No objection.</p> <p>14 JUDGE GOLLIN: GC Exhibit 8 is</p> <p>15 received.</p> <p>16 -----</p> <p>17 (Thereupon, General Counsel</p> <p>18 Exhibit 8 was received into</p> <p>19 evidence.)</p> <p>20 -----</p> <p>21 Q. When you walked into the room and</p> <p>22 Mr. Bauer was already there, can you describe</p> <p>23 to me who was where within the room?</p> <p>24 A. When you walk into the room, I</p> <p>25 would say it's not much larger than a nine by</p>

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<p>1 eight room, maybe eight by twelve at the most, 2 there was a desk that was centrally located, 3 two chairs behind it, which Chris was in the 4 first chair to the left, which was closest to 5 the wall, and I walked into the position behind 6 the chair that was closest to the right. 7 Q. During your time in Deanna's office 8 and in the HR office, was her office door open 9 or closed? 10 A. When I -- Deanna's office? 11 Q. Yes. 12 A. It was open. 13 Q. Was it open the whole time? 14 A. Yes. 15 Q. Do you remember what Deanna -- when 16 you walked in, was there any conversation 17 happening? 18 A. I mean, yeah, there was 19 conversation happening. I mean, it was more or 20 less -- I can't remember exact details of what 21 the conversation was. I mean, it's -- I don't 22 know how to describe it. It went from a 23 nonissue to an issue faster than what most 24 brains can conceive. 25 Q. I'd specifically like to ask you</p>	<p>1 Q. This discussion of biasness, 2 second-class citizens, was this -- did this 3 start before or after Mr. Cannon-El entered the 4 room? 5 A. I mean, ultimately I don't know the 6 answer to that. Chronologically I can't place 7 it in my head, the direct order in which this 8 took place. 9 Q. You did discuss the perceived bias? 10 A. Yes. 11 Q. Okay. So I'd like to ask you more 12 questions about exactly what was said there, 13 but first, when Mr. Cannon-El walked in, when 14 he joined you, where was he within the room? 15 A. Technically it would be behind me, 16 slightly over my right shoulder. 17 Q. Okay. So you mentioned this issue 18 of nightshift versus day shift and the 19 perceived bias. 20 Do you remember what you told 21 Ms. Deanna Adams? 22 A. I mean, as far as bias goes, like I 23 said, I brought up issues, that we tried to 24 report issues before and they were met with 25 nothing, they were just tossed to the wayside.</p>
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<p>1 exactly what you remembered hearing. 2 So when you joined the office, you 3 said you can't remember exactly what was being 4 said at that time when you joined in? 5 A. No, I don't remember what 6 conversation was taking place between Chris and 7 Deanna Adams. 8 Q. What if anything did you say -- I 9 guess I should ask, did anyone ever join you 10 within -- did anyone join you, as well? 11 A. Within five minutes of me being in 12 the room, Will Cannon came into the room, as 13 well. 14 Q. So when you first came into the 15 room, you said there was some talking. 16 What, if anything, did you say? 17 A. I mean, I just brought up the 18 concerns of the fact that it seems like issues 19 that we have never get recorded and that every 20 time we try to report an issue, we're met with 21 opposition of reporting that issue. 22 From there, the conversation filed 23 into a conversation about the biases, that 24 nightshift employees are treated like 25 second-class citizens.</p>	<p>1 I brought up the concern that prior to that 2 Will had accusations put on him, and that we 3 had evidence to prove that the accusations made 4 on him weren't factual, and that it was the day 5 shift guys. 6 At that point is when the 7 conversation -- 8 Q. Let me stop you there. 9 Did you give Ms. Adams any details 10 about this issue of Will having accusations 11 thrown at him in the past? 12 A. I mean, I brought up the fact that 13 the day shift employee, John Stasko, was 14 throwing accusations and lies about work being 15 done and accusations about work not being done. 16 I even told her that I provided the information 17 by pulling the data from our system that proved 18 it was actually the other way around, he was 19 the one who wasn't doing his workload, and Will 20 Cannon was doing his. 21 Q. Any other details that you remember 22 telling Ms. Adams about the issues you were 23 describing? 24 A. I mean, my concern with the whole 25 issue is, every time it came to Will it was,</p>

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<p style="text-align: right;">Page 297</p> <p>1 you know, just clucked up. Had it been a day 2 shift employee and we made an accusation about 3 them, we would have been reprimanded, for lack 4 of a better term, scolded or publicly berated, 5 the nightshift in front of the day shift guys, 6 with no corrections being shown in that same 7 manner. 8 Q. And is this a concern that you 9 voiced to Ms. Adams? 10 A. I mean, during that time I voiced 11 it to anybody that would listen at the time. 12 Q. On May 26, you voiced that concern 13 to Ms. Adams? 14 A. Yes, ma'am. 15 Q. Is there anything else that you 16 remember specifically saying to Ms. Adams at 17 that time? 18 A. I mean, if you want to talk about 19 like the issues of like biasness and how they 20 go and the fact that nightshift is the 21 second-class citizens and, you know, it's just 22 the variety of what takes place there. That's 23 the whole concern of the issue, the 24 nightshift/day shift issue. We don't have a 25 voice. We can't be heard.</p>	<p style="text-align: right;">Page 299</p> <p>1 information to show that the allegations are 2 wrong, that it's showing a clearcut case of 3 biasness, showing that I wasn't involved in the 4 situation. 5 From there, the conversation went 6 into a conversation about physical and verbal 7 assault. 8 Q. Do you remember how it transitioned 9 into that conversation? 10 A. From the physical and verbal 11 assault, it was -- I want to say it was a 12 comment that Mr. Cannon made about the 13 biasness, "Tell me it's not biased for him to 14 get into a person's face." 15 Q. That's something Mr. Cannon-El 16 said? 17 A. Mr. Cannon brought up the 18 conversation that was along those lines. 19 Deanna made a correction, "It's not physical 20 assault." 21 And I said, "No, it's verbal 22 assault." 23 And then I said the problem with 24 verbal assault, if somebody spits on you, it 25 can become physical because you invaded their</p>
<p style="text-align: right;">Page 298</p> <p>1 And we were given Huck Finn, and 2 then they were trying to head us off with Mark 3 Metcalf. And that's where my problems were 4 coming from, "You're telling us to supersede 5 the power of the VP who told us to report to 6 Huck Finn." 7 And my whole issue with that case 8 there was, Gordy came down, for lack of a 9 better term, with an already pre-assumed 10 disposition of what was going on in the meeting 11 and had already walked in with a biasness 12 toward the meeting because of the fact that he 13 was handed the information over the phone that 14 may or may not be factual, because I honestly 15 don't know what was said on the phone, but then 16 he comes into the room and he's yelling at 17 people for actions they didn't do, and other 18 people later on admitted that it was done, and 19 the actions were not the person they were 20 yelling at, that that's a concern for me, 21 because that right there was showing that there 22 is a biasness about the situation already. 23 And with the previous accusations 24 of day shift employees making allegations about 25 nightshift employees and us providing</p>	<p style="text-align: right;">Page 300</p> <p>1 space at that point, that that actually became 2 factual, I said in which case it can be a 3 bigger problem. 4 Q. Did Ms. Adams respond to what you 5 were saying? 6 A. Well, that's the thing, she got 7 angry about the physical assault comment, and 8 that's what I told her, if someone spits, it is 9 physical assault. 10 Right after that segment is when 11 the whole thing transpired to the events that 12 became after that point. 13 JUDGE GOLLIN: What happened? 14 What happened? 15 THE WITNESS: Well, that's the 16 thing, like I can't tell you what took place in 17 anybody else's head or anything like that. 18 JUDGE GOLLIN: I want to know what 19 was said and what actions you saw. 20 THE WITNESS: The term "biasness" 21 was thrown out. Ms. Deanna got offend by the 22 "bias" term. 23 JUDGE GOLLIN: Bias or assault? 24 THE WITNESS: It was bias, because 25 he was saying there's a clear view of biasness</p>

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<p style="text-align: right;">Page 301</p> <p>1 going on here. 2 She said, "Okay, that's it, you 3 need to leave." 4 He said, "What did I do?" 5 He exited the office, turned around 6 and made a comment, "Can I at least drop my 7 statement off?" 8 She said, "No. You have to hit the 9 clock and get off the premises now." 10 And he said, "Okay. Well, clearly 11 there's biasness here, too, if we can't even 12 report our issues," at which point in time she 13 stood up and went out into the hallway and 14 said, "You have to leave right now." She said, 15 "You have until the count of three before I 16 have you removed from the premises." So she 17 said, "One," and Cannon said, "Two, three," at 18 which time she came back past us to get on the 19 phone. I assume she called the front desk, I 20 don't know who, to have Cannon forcefully 21 removed from the property. 22 JUDGE GOLLIN: You used the words 23 "forcefully removed from the property." 24 THE WITNESS: Maybe not. She 25 probably just said have him removed.</p>	<p style="text-align: right;">Page 303</p> <p>1 Q. Does this map accurately reflect 2 where things are located in the HR office? 3 A. Pretty close, I guess. 4 Q. Is there anything else that you 5 think is incorrect? 6 A. There's only one thing missing. In 7 the training room there is an exit door in that 8 room, as well. And the water fountain, I 9 guess. 10 Q. Okay. And I see there's some 11 handwritten -- I'm sorry, I think I might be -- 12 just a moment. Let me make sure I'm showing 13 you the correct -- 14 JUDGE GOLLIN: This looks like the 15 same as "3." 16 MR. ROSENTHAL: Including the 17 handwriting. 18 Q. Is that your handwriting on there? 19 A. Yeah. 20 JUDGE GOLLIN: When you say, "Is 21 that your handwriting," what parts were your 22 handwriting? 23 THE WITNESS: I drew the circles 24 with the D1, D2, the B1, C1, the water fountain 25 thing over here, and I also put the line in the</p>
<p style="text-align: right;">Page 302</p> <p>1 JUDGE GOLLIN: Remember what I said 2 about saying the words. 3 THE WITNESS: I'm sorry. You have 4 to understand, it's been over a year now. 5 JUDGE GOLLIN: I know. But I want 6 you to tell me what was said, as opposed to any 7 characterizations on your part. 8 THE WITNESS: Okay. 9 Q. I just want to make sure -- well, I 10 guess I'll do it this way: You described what 11 happened. I'm going to show you what's marked 12 as General Counsel's Exhibit 9. 13 ----- 14 (Thereupon, General Counsel 15 Exhibit 9 was marked for purposes of 16 identification.) 17 ----- 18 Q. Mr. Poff, do you recognize this 19 document? 20 A. Yes. 21 Q. What is it? 22 A. This is the layout of the way the 23 training room and everything was back when that 24 took place inside of Deanna's office and where 25 everyone was before and after the ejection.</p>	<p style="text-align: right;">Page 304</p> <p>1 back where there is another exit door. 2 MS. MURAROVA: Your Honor, can we 3 go off the record? 4 I guess I can explain this on the 5 record. There are two different maps, and the 6 locations are very similar, there's handwriting 7 on both, and I believe I may have shown 8 Mr. Cannon-EI the incorrect document. 9 JUDGE GOLLIN: So GC Exhibit 9 is 10 what this Witness marked, and I'm assuming you 11 want to go through with him what he means by 12 the circles and the abbreviations. 13 And then do you have another 14 document that you want to replace GC Exhibit 3 15 with? 16 MS. MURAROVA: I do. And I would 17 like to recall Mr. Cannon-EI briefly just to 18 explain. 19 JUDGE GOLLIN: Let's finish with 20 this Witness. 21 Q. Okay. So there's some handwriting 22 on there and circles. 23 And you said that's your 24 handwriting? 25 A. To the best of my knowledge, it</p>

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<p>1 looks like what I drew. 2 Q. Can you explain to me what these -- 3 what the various handwritten things on the 4 document are? 5 A. The P1 is a position one for me. 6 B1 is Position 1 for Christopher Bauer. D1 is 7 Position 1 for Deanna. C1 is Cannon's first 8 position. D2 is the position that Deanna went 9 to when the altercation came to the "one, two, 10 three" comment. 11 Q. So Ms. Deanna moved -- 12 A. From behind her desk, past me and 13 Christopher Bauer, and toward the door. 14 Q. And what's that little squiggle 15 next to copier, fax and mail room? 16 A. That's actually where a 17 coffee/cappuccino machine used to sit, which is 18 where I went to after the Police were called. 19 Q. When you started your conversation 20 with Ms. Adams that day, what was her demeanor 21 like? 22 A. Calm and collected. 23 Q. At any point did it change? 24 A. Well, that's the thing, it was a 25 30-second window that it went from calm and</p>	<p>1 A. I mean, the closest thing to a 2 change was he got -- when you're being asked to 3 leave, frustration, experiencing frustration. 4 Q. What makes you say you thought he 5 was frustrated? 6 A. I mean, if you're trying to hand 7 over a -- 8 JUDGE GOLLIN: She's asking you 9 physically what did you see in his demeanor? 10 Did his body position change, his 11 facial expression change, anything that you 12 saw? 13 THE WITNESS: It would be the 14 facial expression. It went from calm and 15 collected to just the look of bedazzlement, 16 like -- I'm not trying to -- 17 JUDGE GOLLIN: He looked confused? 18 THE WITNESS: Yes. 19 Q. Did he wave his arms around? 20 A. Not that I recall. 21 Q. During that interaction did you 22 ever see Mr. Cannon-El approach Ms. Adams? 23 A. No. 24 Q. Did you ever see Mr. Cannon-El 25 block Ms. Adams' exit?</p>
Page 306	Page 308
<p>1 collected to just agitated. 2 Q. When was that window? 3 A. When she was asking Cannon-El I 4 believe is when she seemed agitated. 5 Q. What makes you say she seemed 6 agitated? 7 A. She stood up from behind her desk, 8 where her position was sitting calmly, to where 9 she stood up and asked him to leave, and you 10 stand up from a comfortable position to a 11 standing position. 12 Q. During that interaction did you 13 ever see Mr. Cannon-El yell or hear him yell? 14 A. Like I said, I'm pretty sure -- in 15 a room where multiple people are talking, I 16 can't say the decibels didn't rise. If anybody 17 in the room was yelling, it would have been 18 everybody at the same time. I'd say the voices 19 got louder in conversation, but I wouldn't 20 say -- ultimately, nobody was yelling. 21 Q. What was Mr. Cannon-El's demeanor 22 at the start of the conversation? 23 A. At the start of the conversation, 24 calm and collected. 25 Q. Okay. Did that ever change?</p>	<p>1 A. No. 2 Q. Did you ever hear him curse or use 3 any profanity toward her? 4 A. No. 5 Q. Did you hear him make any threats 6 toward her? 7 A. No. 8 Q. Did you hear him tell her, "You're 9 going to pay for this"? 10 A. No. 11 Q. Did you see Ms. Adams crying? 12 A. Not until later on. 13 Q. Did she look shaken to you? 14 A. In my opinion, she looked 15 aggravated, disturbed. 16 Q. Did you see Mr. Cannon-El with any 17 weapon? 18 Did you see him have any weapons on 19 him? 20 A. No, ma'am. 21 Q. Did you see anyone else in the 22 hallway while this was -- 23 A. While this was going on -- 24 Q. -- from where you were? 25 A. I was in the room, so there was no</p>

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Page 309	Page 311
<p>1 way I could have seen anyone in the hallway at 2 that point in time.</p> <p>3 Q. So you described what happened 4 until Ms. Adams telling Mr. Cannon-El and then 5 coming back -- is it coming back into her 6 office and making some phone calls, right?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Where were you?</p> <p>9 You were still in the room while --</p> <p>10 A. I was in the room when she was 11 making the calls, whoever she called, telling 12 them to call the Police.</p> <p>13 Q. At what point did you leave?</p> <p>14 A. Literally the moment she hung up 15 the phone for them to call the Police is when I 16 walked into the hallway and went to where the 17 coffee machine thing is -- or was. I don't 18 think it's there now.</p> <p>19 Q. And while you were in the hallway, 20 was anyone else in the hallway with you?</p> <p>21 A. Maria Jackson came out into the 22 hallway. When I was in the hallway, it was me 23 and Will. Chris walked out and continued 24 walking to the lobby. I stood by the coffee 25 machine for a brief moment. Maria Jackson came</p>	<p>1 Q. Okay. But you remember seeing him 2 on the phone?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. What was his demeanor like when he 5 was on the phone?</p> <p>6 A. Upset.</p> <p>7 Q. What makes you say that?</p> <p>8 Was he yelling into the phone?</p> <p>9 A. No. He was more asking for 10 somebody to come up there because he didn't 11 understand what was going on and didn't want to 12 be caught in any trouble for something he 13 didn't do basically.</p> <p>14 Q. Is that what you heard him saying?</p> <p>15 Are you speculating?</p> <p>16 A. It's a partial conversation. He 17 said, "Hey, sis, I need you to come up here," 18 is the exact phrase I remember coming out of 19 his mouth when he was on the phone. 20 Chronologically that was during the course of 21 walking up the hallway. When I came up the 22 hallway, I don't know if he was already in 23 conversation with her, but that's the comment I 24 heard when I was walking up the hallway.</p> <p>25 Q. I'm sorry, where did you say you</p>
Page 310	Page 312
<p>1 out. She looked at me and I looked at her, and 2 I shrugged my shoulders, and she walked out 3 into the lobby, as well.</p> <p>4 Q. Did you see if any of the doors in 5 the HR Department were open?</p> <p>6 A. If I recall correctly, all the 7 doors in the HR Department were open at that 8 time.</p> <p>9 Q. Did you see anyone attempt to close 10 their door?</p> <p>11 A. Not that I recall.</p> <p>12 Q. You said you stood there with 13 Mr. Cannon-El for a moment.</p> <p>14 What was he doing while you stood 15 next to him?</p> <p>16 A. I can speculate, but I don't know 17 entirely. But I believe at that time is when 18 he was either calling or currently on the phone 19 with his sister. At that moment he was on his 20 phone.</p> <p>21 Q. Are you speculating or do you 22 remember?</p> <p>23 A. He was on the phone. The problem 24 is, I don't know if he was calling or already 25 in conversation with his sister at that time.</p>	<p>1 went when you walked through the hallway?</p> <p>2 A. I went up and out into the lobby 3 and across the street because at that point it 4 was time to clock in and get ready for my 5 shift.</p> <p>6 Q. At any point did you see any Police 7 arrive?</p> <p>8 A. Yeah. I went in to see about 9 clocking in. It wasn't quite time to clock in, 10 so I walked back outside to smoke a cigarette 11 before my shift, and at that time a Police 12 Officer pulled into the parking lot. Deanna 13 was located to the left of the lobby door at 14 that time, and that's the time when I seen 15 tears in her eyes.</p> <p>16 Q. After that day did you -- that day 17 did you communicate with -- after the Police 18 arrived, did you communicate with Mr. Cannon-El 19 in any way?</p> <p>20 A. Afterwards it was hearsay through 21 the shop as far as the accusations that they 22 were putting on Will, so I made a point to 23 message him that I didn't think they were 24 accurate.</p> <p>25 Q. I'm not sure if you have a copy of</p>

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<p>1 General Counsel's Exhibit 4 in front of you. 2 JUDGE GOLLIN: He may, but you're 3 going to have to pull it out for him because I 4 told him to turn them over. 5 Q. I'm showing you General Counsel 6 Exhibit 4. 7 A. Yeah, I sent that. 8 JUDGE GOLLIN: Is that an e-mail 9 or -- 10 THE WITNESS: That's a text 11 message. 12 JUDGE GOLLIN: Which portions are 13 from you? 14 THE WITNESS: This is me and this 15 is me. (Indicating) 16 Q. Are you referring to the 17 lighter-colored or the darker-colored text? 18 A. See, that's where it's confusing, 19 yeah, because the lighter color was me. 20 JUDGE GOLLIN: All right. So the 21 lighter-color is "Yes sir"? 22 THE WITNESS: Uh-huh. 23 JUDGE GOLLIN: Then the one below 24 it that's lighter colored says what? 25 THE WITNESS: "Just so you know I</p>	<p>1 he wasn't allowed to be on the property, and 2 they were bringing out his check for him. 3 Q. When you say, "Thursday or Friday," 4 how soon was this in relation to -- 5 A. It would have been in that same 6 week. I can't remember if it was that Thursday 7 or that Friday when he came to get his check. 8 I want to say it was that Friday. He came up 9 to get his check and he was told he wasn't 10 allowed to be on the premises. 11 Q. How do you know that? 12 A. Another employee came and told me 13 he was outside and they wouldn't let him in. 14 JUDGE GOLLIN: I'm only interested 15 in the things that you were physically present 16 for. 17 THE WITNESS: I stepped outside 18 while Will was out there, and that's when we 19 conversed about what I had heard versus what he 20 had heard, and at that point in time I wasn't 21 sure if I was going to see him again, so I 22 asked him for a number or something, because I 23 requested a copy of my statements, but I didn't 24 actually receive a statement from Meyer Tool, 25 so he gave me a book and I wrote down a brief</p>
Page 314	Page 316
<p>1 was in there. Not once did I see a hostile 2 action nor did you raise your voice. So I see 3 no need for the action of calling the Police." 4 JUDGE GOLLIN: Who sent that to 5 you? 6 THE WITNESS: Mr. Cannon-El. 7 MS. MURAROVA: Your Honor, since 8 he's authenticated that portion of that 9 Exhibit, I'd like to have that admitted. 10 JUDGE GOLLIN: Any objection? 11 MR. MARTIN: No objection. 12 JUDGE GOLLIN: So it's received. 13 GC Exhibit 4 is received. 14 - - - - - 15 (Thereupon, General Counsel 16 Exhibit 4 was received into 17 evidence.) 18 - - - - - 19 Q. After May 26, did you ever see 20 Mr. Cannon-El again? 21 A. Yes. He came up -- 22 Q. When was the next time you saw him? 23 A. It was either Thursday or Friday. 24 He came to pick his check. Another employee 25 came in and told me that Cannon was outside and</p>	<p>1 statement, and I gave him that, as well, in 2 case we didn't see each other again. 3 JUDGE GOLLIN: This is a statement 4 you gave the company? 5 THE WITNESS: This is one I gave 6 personally to Will in case I did not see Will 7 again. 8 Q. What did you write in the 9 statement? 10 A. Basically just the account of the 11 event that took place with Deanna Adams that 12 day. Verbatim, I don't remember what it even 13 said. 14 MS. MURAROVA: I have a copy of the 15 statement that I'd like to introduce. 16 JUDGE GOLLIN: I'm assuming you're 17 going to get the same objection and you're 18 going to get the same ruling from me. If he 19 provided it to the company in the course of the 20 investigation, I can see the relevance of it, 21 but it's something that he provided to him 22 several days after the incident. He's here to 23 testify about his recollection. If there's 24 some aspect of his recollection that he's 25 unclear of and you want to use it to refresh</p>

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<p style="text-align: right;">Page 317</p> <p>1 his recollection, you certainly can. 2 MS. MURAROVA: I understand. 3 Q. So after that day, when you saw 4 Mr. Cannon-EI -- well, I guess on that day did 5 you have any discussions with any supervisors 6 about what was going on with Mr. Cannon-EI? 7 A. No. The only thing we were 8 informed -- Rick came over and told us that 9 Will probably wouldn't be back, and that he 10 still had his badge. 11 Q. Where were you when you had this 12 conversation with Rick? 13 Is that Rick Ackerson? 14 A. Yes. He was the supervisor at the 15 time. 16 Q. Was anyone else around when he told 17 you this? 18 A. He was on our general shop floor, 19 standing behind our machines, I'm sure there 20 were people around, but nobody was intently 21 involved in that conversation with us, no. 22 Q. After that day did you ever talk to 23 any Meyer Tool representatives about what 24 happened that day on May 26? 25 A. Yeah. We had a committee board</p>	<p style="text-align: right;">Page 319</p> <p>1 I could have possibly heard from somebody else. 2 The moment you make conjecture, I 3 feel that I'm being basically -- I'm laying 4 into something, and when all I was doing was 5 standing up for personnel and people I care 6 about on my job. 7 Q. What did you tell -- 8 A. After that -- 9 Q. Go ahead. It seems like you're 10 about to tell us more about what happened. 11 What did you tell the committee? 12 Can you just walk me through 13 exactly what you remember telling them? 14 A. I mean, to walk you through exactly 15 what I remember telling them is a hard thing 16 because, I mean, it was a committee of people, 17 not legal advisors or anything like that. The 18 only thing I made a stipulation for was that 19 when I walked in, I asked if legal precedent 20 wasn't needed at that point in time, which they 21 told me that it wasn't. 22 They asked me what I remember from 23 the previous day, several weeks prior, at which 24 point I was met with a couple questions about a 25 couple of details. And then they proceeded to</p>
<p style="text-align: right;">Page 318</p> <p>1 meeting thing with Paul Rowland, Nikki Fugate 2 and I don't remember the other lady. 3 Q. How did you come to have that 4 meeting? 5 A. I was requested to go over. 6 Q. By someone in management? 7 A. When I came in, Rick told me I was 8 to report to HR. And prior to that Tina 9 Loveless asked me if I would be willing to come 10 in and sit with the committee. 11 Q. How soon after the events did you 12 have this meeting with the committee? 13 A. I want to say it was the very 14 following day. 15 Q. Where did you meet with them? 16 A. In the HR training room. 17 Q. I'll ask you to run through the 18 meeting, but generally, what was the meeting 19 about? 20 A. The meeting started off with the 21 Gordy McGuire incident on the 25th. They were 22 asking me kind of the details. We went over a 23 couple stipulations there about what was 24 hearsay, what was not hearsay, what I 25 physically actually seen and heard versus what</p>	<p style="text-align: right;">Page 320</p> <p>1 the 26th, the day after the incident on the 2 25th. 3 Q. Let's go over what you told them 4 about what happened on May 25. 5 What did you tell them about Gordy 6 McGuire? 7 A. I mean, that Gordy McGuire, as we 8 know at the shop, is rude and abrasive and 9 belittling to people, and he tries to control 10 them. That's the fear tactic he uses for 11 management. 12 Q. What, if anything, did you tell the 13 committee about Gordy's actions on May -- did 14 you describe to them what he did on the 25th? 15 A. What I told them, if it was me and 16 he got in my face like that, I would have 17 ripped his jaw off his chin. 18 Q. Did you tell them how Gordy was 19 acting toward Will? 20 A. Yes. 21 Q. Did you describe what happened? 22 A. I told them that from all accounts 23 of what I got, Gordy came in already fired up 24 about the situation prior to even being 25 involved in the situation.</p>

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1 Q. What if anything -- you sort of
2 alluded to this, but what if anything -- did
3 you share -- did you share your feelings with
4 them about how you felt Gordy was acting?
5 A. I told them that I don't think it's
6 appropriate for a company to treat people like
7 they are property, for people to be asserted
8 with. You can't argue with and berate us to
9 get us to conform with what we have to do. We
10 have a job to do, so as long as my personnel is
11 getting their job done, that's important. When
12 you come down and berate us, but you have no
13 berating for day shift, and them having a
14 biasness for treating us like second-class
15 citizens.
16 Q. Did you describe the berating of
17 Will Cannon-El?
18 A. Yeah. They asked me what I seen,
19 so I told them when I walked into the room that
20 he was in Will's face, being very loud and
21 boisterous, the conversations they were having,
22 and I intentionally interrupted the
23 conversation because I did not like the look of
24 the intent when I walked into the room to begin
25 with.

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1 Q. Still talking about the 25th, what
2 if anything did you say about Rick, Rick
3 Ackerson?
4 A. I mean, several issues were cited
5 and reported to Rick prior to the actual
6 incident, and I informed him that, for lack of
7 a better term, there's an archetype that people
8 have manifest around Will, and I don't think
9 it's fair because he's not getting a fair
10 shake.
11 Q. Did you talk about Mr. Ackerson's
12 demeanor at all at the meeting or generally?
13 A. I mean, I don't remember if I did
14 or not. I'm sure I did because we were talking
15 about several things. I brought up the fact
16 that I didn't like the committee they assembled
17 because Paul Rowland had direct relations with
18 the day shift on there, so you have biasness
19 coming into a meeting such as that.
20 Q. What's the relationship that Paul
21 Rowland had?
22 A. Paul Rowland is -- William Mitchell
23 is his wife's nephew, and Paul -- William
24 Mitchell technically is listed now as our lead
25 man on days in that cell.

1 Rick Ackerson has a relationship
2 with Paul Rowland by the fact that all the guys
3 who do work for his group run EDM machines, so
4 they know Paul Rowland. And Rick Ackerson's
5 office is right by Paul Rowland's, so there's
6 no way that you could have an unbiased opinion
7 when you deal with him on a regular basis, yet
8 you have no interactions with us.
9 JUDGE GOLLIN: Did you provide a
10 written statement to the committee?
11 THE WITNESS: I did that day for
12 the 26th incident, I'm pretty sure. It should
13 have been handed to Fugate at that time.
14 JUDGE GOLLIN: You provided a
15 written statement prior to the meeting, after
16 the meeting?
17 THE WITNESS: I brought it with me
18 to the meeting. I asked her if she wanted it,
19 because nobody asked me to provide it prior to
20 that.
21 JUDGE GOLLIN: You're talking about
22 the meeting --
23 THE WITNESS: That day, it would
24 have been just the incident, what happened on
25 the 26th, because after the committee meeting

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1 on the 25th, that's when they started asking.
2 JUDGE GOLLIN: Is that something
3 you're going to be introducing?
4 MS. MURAROVA: Yes.
5 JUDGE GOLLIN: Okay.
6 MS. MURAROVA: Yes.
7 Q. What if anything did you tell the
8 committee about this air quality issue?
9 A. That I tried to report it several
10 times, and that pretty much had fallen on deaf
11 ears. And then Mr. Paul Rowland asked me to go
12 into detail about what I mean.
13 When you use a Hoss mill as a Hoss
14 mill, it's a completely viable and safe
15 machine. The modifications we do with it,
16 putting on a grinding wheel, adding the coolant
17 that we use, is flooding the machine. So when
18 we do that, all that coolant is put into the
19 air, and you're breathing that in. And when
20 you're breathing that in -- there have been
21 several people in the shop that have gotten
22 pneumonia. So those machines that have been
23 modified, they have to add a mist collector on
24 those. And his same answer to that was, mist
25 collectors cost a lot, we have to justify them

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JA104

<p style="text-align: right;">Page 325</p> <p>1 before we have them.</p> <p>2 Q. Is there anything else about what</p> <p>3 happened on May 25 that you told the committee</p> <p>4 that you think might be important?</p> <p>5 A. Like I said, when Will came over to</p> <p>6 that department from his previous department --</p> <p>7 Q. This is what you're saying you told</p> <p>8 the committee?</p> <p>9 A. Yes. I told them that there was a</p> <p>10 stigma on Will when he came over to that area</p> <p>11 already. The only reason why I know this is</p> <p>12 because I was asked my personal opinion about</p> <p>13 what I thought of the man prior to him coming</p> <p>14 to our area. I informed my direct supervisor</p> <p>15 at the time, Rick Ackerson, that I worked well</p> <p>16 with Will, which I helped set up and train his</p> <p>17 position when he joined Rick Ackerson's cell at</p> <p>18 that time. I told him I had no problems with</p> <p>19 him, but other people at the shop did.</p> <p>20 He asked me what problems other</p> <p>21 people had, and then he asked me if I thought</p> <p>22 he had any form of racism to him. And I</p> <p>23 said as far as I know, he's very boisterous and</p> <p>24 passionate about what he believes in, but the</p> <p>25 guy does good work.</p>	<p style="text-align: right;">Page 327</p> <p>1 Q. Did you tell the committee why you</p> <p>2 were in the HR office on the 26th?</p> <p>3 A. Yeah. I told them that I was there</p> <p>4 to complain about Gordy McGuire and the</p> <p>5 situation that took place there.</p> <p>6 Q. Did you tell them -- did you only</p> <p>7 talk about yourself or did you talk about --</p> <p>8 A. I mean, you can ask anybody that's</p> <p>9 ever worked with me or for me, I don't just</p> <p>10 stick up for myself in the workplace. I stick</p> <p>11 up for all the people around me.</p> <p>12 Q. When you spoke to the committee,</p> <p>13 what --</p> <p>14 JUDGE GOLLIN: Did you explain to</p> <p>15 them why you were in the HR office on the 26th?</p> <p>16 Did you explain why you were there?</p> <p>17 THE WITNESS: Yeah. I told them I</p> <p>18 was there to express the issue of Gordy McGuire</p> <p>19 getting into another person's face and how it</p> <p>20 could be perceived to an outside person.</p> <p>21 Q. What if anything did you tell the</p> <p>22 committee about sort of the tone of the</p> <p>23 meeting?</p> <p>24 A. Basically in a nutshell I told them</p> <p>25 that it seemed like they were just creating an</p>
<p style="text-align: right;">Page 326</p> <p>1 Q. I'd like to talk to you about what</p> <p>2 you told the committee about what happened on</p> <p>3 May 26.</p> <p>4 What did you tell them about</p> <p>5 May 26?</p> <p>6 A. Basically it was a situation that</p> <p>7 went from a calm and collected conversation of</p> <p>8 us voicing concerns to like an explosive</p> <p>9 altercation that our heads were left spinning</p> <p>10 because we couldn't figure out entirely what</p> <p>11 happened.</p> <p>12 Q. Did you tell them --</p> <p>13 A. They asked me if he made any terms</p> <p>14 about racism or anything. The closest thing to</p> <p>15 racism was the bias that we'd been talking</p> <p>16 about, the entire theme that we've always had</p> <p>17 issues with. You treated us differently</p> <p>18 because we're nightshift employees, so it's</p> <p>19 like we're not entitled to the same rights that</p> <p>20 day shift are. If day shift makes an</p> <p>21 accusation about nightshift, they run with it</p> <p>22 and do whatever they want. But if nightshift</p> <p>23 makes an accusation about day shift, it's none</p> <p>24 of our damn business, that what day shift does</p> <p>25 is none of our damn business, as well.</p>	<p style="text-align: right;">Page 328</p> <p>1 event to get rid of an employee that really</p> <p>2 didn't have an issue. It's like they created</p> <p>3 the issue there themselves to get rid of him.</p> <p>4 Q. Did you describe the events of the</p> <p>5 26th to them in any way, sort of the actual</p> <p>6 factual -- what you factually remembered?</p> <p>7 A. For the 26th in Deanna's office?</p> <p>8 Q. Yes. Did you describe what</p> <p>9 happened to the committee?</p> <p>10 A. Yes. We pretty much went over the</p> <p>11 same thing we did here the entire time.</p> <p>12 Q. Did you describe -- so I just want</p> <p>13 to make sure more specifically, you said you</p> <p>14 described to them what we're talking about</p> <p>15 here.</p> <p>16 Did you -- can you tell me -- I</p> <p>17 mean, I guess I'll just ask specifically, did</p> <p>18 you tell them about Will asking if he could</p> <p>19 submit his statement?</p> <p>20 A. Uh-huh.</p> <p>21 Q. Did you tell them --</p> <p>22 JUDGE GOLLIN: You have to say yes</p> <p>23 or no.</p> <p>24 THE WITNESS: Yes.</p> <p>25 Q. Did you tell them about that?</p>

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Page 329	Page 331
<p>1 A. Yes. I told them about Will asking 2 to submit a statement, and she told him no at 3 that point. 4 Q. Did you tell them about Deanna 5 Adams getting up from her desk and approaching 6 Mr. Cannon-El? 7 A. Yes. 8 Q. Did you tell them whether or not 9 Deanna would accept the statement? 10 A. I mean, I told them the same 11 account, so, yes, I did. 12 Q. Do you know what happened as a 13 result of the investigation? 14 I guess, let me ask you, is there 15 anything else about the 26th that you told the 16 committee that you think might be important 17 that you remember? 18 A. I mean, I tried to talk about it 19 many times to you people now over the course of 20 a year, so I can't recall telling anybody any 21 more. 22 Q. Do you recall testifying to what 23 you told us a few moments ago? 24 A. That's what I'm saying, I remember 25 going over all this, but I don't think about it</p>	<p>1 "9"? 2 MR. MARTIN: No objection to "9," 3 except for -- 4 JUDGE GOLLIN: I'm assuming General 5 Counsel is withdrawing "3" at this point, 6 correct? 7 MS. MURAROVA: Yes. 8 MR. MARTIN: No objection. 9 JUDGE GOLLIN: You said objection 10 or no objection? 11 MR. MARTIN: No objection. 12 - - - - - 13 (Thereupon, General Counsel 14 Exhibit 9 was received into 15 evidence.) 16 - - - - - 17 Q. Mr. Poff, do you recognize this 18 document? 19 A. Yes, ma'am. 20 Q. What is it? 21 A. It's my write-up for my 22 insubordination and lack of cooperation and 23 team work and improper conduct. 24 Q. When did you receive this? 25 A. A week or two after the whole</p>
Page 330	Page 332
<p>1 on daily basis. It's not something that -- 2 JUDGE GOLLIN: Thank you. We've 3 beat this repeatedly. 4 MS. MURAROVA: I'll move on. 5 JUDGE GOLLIN: Thank you. 6 Q. Do you know what happened as a 7 result of the investigation? 8 A. The only thing I know about is that 9 Will Cannon-El was terminated from employment. 10 Q. Do you know if anything happened to 11 you as a result of the investigation? 12 A. Yes, I was written up for 13 insubordination. 14 - - - - - 15 (Thereupon, General Counsel 16 Exhibit 10 was marked for purposes 17 of identification.) 18 - - - - - 19 Q. I'm going to show you what I'm 20 marking as General Counsel Exhibit 10. 21 JUDGE GOLLIN: Did you move for 22 "9"? 23 MS. MURAROVA: No, I did not. But 24 I would like to move for the admission of "9." 25 JUDGE GOLLIN: Any objection to</p>	<p>1 thing. That was when Christine Steele came 2 back. She was the one that came over and wrote 3 me up. 4 Q. Okay. Did Ms. Steele say anything 5 to you when she gave this to you? 6 A. The only thing she told me was she 7 didn't want to do it, but she had to do it, and 8 if I had any objections, to go ahead and write 9 my objections on the lines where I could. 10 JUDGE GOLLIN: That's your 11 handwriting in the middle, Employee Comments? 12 THE WITNESS: Yes, sir, where it 13 says -- 14 JUDGE GOLLIN: That's your 15 handwriting, correct? 16 THE WITNESS: Yes, sir. 17 JUDGE GOLLIN: Are you moving for 18 "10"? 19 MS. MURAROVA: Yes. 20 JUDGE GOLLIN: Any objection to 21 "10"? 22 MR. MARTIN: No objection. 23 JUDGE GOLLIN: GC Exhibit 10 is 24 received. 25 - - - - -</p>

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JA106

<p style="text-align: right;">Page 333</p> <p>1 (Thereupon, General Counsel 2 Exhibit 10 was received into 3 evidence.) 4 ----- 5 Q. All right. You mentioned that you 6 gave a statement to the Investigative 7 Committee; is that right? 8 A. Yes. I gave it to Ms. Fugate, who 9 was part of the Investigative Committee. 10 ----- 11 (Thereupon, General Counsel 12 Exhibit 11 was marked for purposes 13 of identification.) 14 ----- 15 Q. I'm going to show you what I'm 16 marking as General Counsel Exhibit 11. 17 Mr. Poff, do you recognize this 18 document? 19 A. Yes, ma'am. 20 Q. What is this? 21 A. This is a recount of the events 22 that took place on the 26th, basically what 23 took place in Deanna Adams' office that day. 24 Q. Did someone ask you to write this? 25 A. Actually, I wrote this down after</p>	<p style="text-align: right;">Page 335</p> <p>1 ----- 2 Q. After May 26, was your workplace 3 assignment ever changed? 4 A. Yes. 5 Q. When was it changed? 6 A. Two days after I was sent across 7 the street to the ATD Building to work on a 8 machine. 9 Q. Two days after what? 10 A. Technically it would have been that 11 Monday when I came in. I was told to report 12 across the street. 13 Q. Were you told why? 14 A. I was told there was a job over 15 there. 16 Q. Had you been to the ATD Building 17 before? 18 A. Prior to that, no. 19 Q. What does ATD stand for? 20 A. Technically, Advanced 21 Technologies Department. But at that time they 22 were in the middle of reallocating and moving 23 parts, converting to grinders that were in a 24 state of repair. 25 Q. At the ATD Building, was the work</p>
<p style="text-align: right;">Page 334</p> <p>1 the whole thing so when I was questioned by the 2 committee I had at least some recollection of 3 what happened. 4 Q. Do you remember when you wrote 5 this? 6 A. I think -- I can tell you that it 7 was within a 24-hour period of 26th, but I 8 can't tell you if it was done on my lunch break 9 at work or if I did it when I got home that 10 day. 11 Q. Do you remember when you gave this 12 to the committee? 13 A. When I got called in to the 14 committee meeting. 15 MS. MURAROVA: I move for the 16 admission of General Counsel's Exhibit 11. 17 JUDGE GOLLIN: Any objection to 18 "11"? 19 MR. MARTIN: No objection. 20 JUDGE GOLLIN: GC Exhibit 11 is 21 received. 22 ----- 23 (Thereupon, General Counsel 24 Exhibit 11 was received into 25 evidence.)</p>	<p style="text-align: right;">Page 336</p> <p>1 you were doing developmental work or production 2 work? 3 A. Technically it's IDC production 4 work. 5 Q. Were you doing production work 6 before May 26? 7 A. No. I mean, well, there's 8 production work that ran in our department, 9 which was something also part of the 10 IDC Department. These parts are not connected 11 to those parts, so they're not familiar or 12 similar in any way. 13 Q. How long were you in that ATD 14 Building? 15 A. For that time, about two weeks. 16 Q. Was anyone else working in your 17 area at that time? 18 A. No. I was the sole person in that 19 section of the building. 20 Q. And after those two weeks -- 21 A. I went -- 22 Q. -- were you moved back? 23 A. I went back to work on a couple 24 fixture jobs. 25 Q. Into what?</p>

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<p style="text-align: right;">Page 337</p> <p>1 A. My NPI area. As soon as those were 2 completed, I was sent back across the street to 3 work again. 4 Q. How long were you in the ATD 5 Building the second time? 6 A. About another two weeks. 7 Q. And what happened at the end of 8 those two weeks? 9 A. I mean, nothing. I was just 10 brought back over to my area and told I had 11 work to do there. 12 Q. What are the differences between 13 production work and developmental work? 14 A. Well, production work is pretty 15 much cut and dry. It's the same process over 16 and over again, load the part, hit the button, 17 make sure the part is loaded before you hit the 18 button. 19 Development and NPI are parts we 20 may not have necessarily received in the shop 21 yet, so we are there to figure out how to make 22 the process better before production on the 23 shop floor, for lack of a better term, so it 24 can be approved. I guess that's speculation on 25 that. So it's to remove any possibility of</p>	<p style="text-align: right;">Page 339</p> <p>1 Could you see from that position 2 what was going on inside? 3 A. Yes, ma'am. 4 Q. Okay. Could you hear what was 5 going on inside? 6 A. Correct. 7 JUDGE GOLLIN: You need to be clear 8 on which meeting. 9 MS. GRUBB: The 25th. He stepped 10 out of two meetings. He stepped out of the 11 group meeting to go to HR. And then he stepped 12 out of the meeting that he was present for 13 involving Gordy McGuire and Cannon-El. 14 THE WITNESS: That's the thing, 15 it's technically the same meeting on the same 16 day. I stepped out of the meeting to go to HR, 17 and then went back to the meeting. 18 JUDGE GOLLIN: My point is, there's 19 two meetings that you stepped out of. Be clear 20 so I know which one he's referring to. 21 Q. Maybe you can clarify that then. 22 Obviously I missed that. I thought this was a 23 situation that all happened at the same May 25 24 meeting. 25 You went to HR --</p>
<p style="text-align: right;">Page 338</p> <p>1 things going wrong. 2 Q. And were you returned to the -- 3 right now are you -- I guess, what did -- I 4 think you testified to this, but what 5 department are you in? 6 A. Same department, NPI. 7 Q. So you are back to your job you 8 were doing before May 26? 9 A. Yes. 10 Q. When someone other than yourself is 11 berated at your work, do you feel like that 12 affects your work environment? 13 MR. MARTIN: Objection. 14 JUDGE GOLLIN: Sustained. 15 MS. MURAROVA: I have no further 16 questions. 17 JUDGE GOLLIN: You've got brief 18 questions? 19 MS. GRUBB: Yes, I do. 20 21 BY MS. GRUBB: 22 Q. Initially when you began testifying 23 today, you were talking about the May 25 24 meeting. You said you left the room and stood 25 by the door.</p>	<p style="text-align: right;">Page 340</p> <p>1 A. I left the meeting initially, I 2 went to HR to voice my concern to Deanna, 3 Deanna then called Gordy, and she informed me 4 that Gordy was on his way to that meeting, so I 5 went back to that meeting, and that's when I 6 went back in and got into the middle of Gordy 7 McGuire getting into Cannon's face. And then 8 after all that transpired is when I stepped out 9 of the room and I think I stood by the 10 machines. 11 Q. Okay. So could you -- why did you 12 step out then? 13 No one at that time ordered you to? 14 A. I don't like it when other people 15 treat people like they're not people. It makes 16 me very angry and upset. So to avoid making a 17 situation worse than what it was, I did my best 18 to calm the situation and leave, as opposed to 19 adding back to it. 20 Q. So while you were standing outside 21 the door, though, you could still see and hear 22 everything that was going on? 23 A. Yes, ma'am. 24 Q. Okay. So everything you related 25 was firsthand, you saw and heard?</p>

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<p>1 A. I can tell you, I did not give you 2 any information that was not heard across these 3 ears or seen across these eyes. 4 Q. Now, as far as -- you used the term 5 Mr. -- the statement, "Mr. Ackerson accused me 6 of brainwashing employees." 7 When did that occur? 8 A. When the meeting was adjourned, 9 after Will walked out, Gordy McGuire and Rick 10 walked out, we were standing over by the 11 machines and the wash sink, and Rick made the 12 statement this was all because of me 13 brainwashing the employees. 14 Q. So when do you talk to employees 15 about these workplace concerns that you have? 16 A. What do you mean? 17 Q. So if you're accused of 18 brainwashing someone, when do you talk to the 19 employees about these concerns that you have? 20 A. Well, that's the thing, I mean, 21 there's never really been a voice of concern 22 that we talk about issues. For instance, the 23 instance where he made allegations against 24 Will, and I went and pulled the data and proved 25 that that wasn't factual a third time. Another</p>	<p>1 A. Uh-huh. 2 Q. What prior concerns had you tried 3 to raise with Mr. Ackerson? 4 MR. MARTIN: Same objection. 5 JUDGE GOLLIN: Well, the issue 6 about the prior concerns that you raised with 7 Mr. Ackerson, how does that relate to what was 8 communicated during this exchange on the 25th 9 either in the meeting you participated in with 10 the group meeting or follow-up? 11 THE WITNESS: Well, the concerns I 12 had prior to that were the fact that employees 13 were making allegations and nothing was being 14 done. 15 JUDGE GOLLIN: Okay. 16 THE WITNESS: Yeah, I don't really 17 see the linking of the thing there together 18 unless you want to -- 19 JUDGE GOLLIN: My question is, 20 those concerns you raised with Ackerson before, 21 did that come up again? 22 Did you verbally express those to 23 him again when you interacted with him during 24 the first part of the meeting when you walked 25 into HR or the first --</p>
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<p>1 employee, Glenn Young, Junior, went and pulled 2 the data himself to prove that what they stated 3 was not factual. 4 Collectively, the entire nightshift 5 have a concern about the way we were being 6 treated. It wasn't something that we talked 7 about on a regular basis, but there would be 8 events that we would verbally discuss about 9 things as they transpired. There was never any 10 delegation of sitting down, "Hey, should you do 11 this," or "Hey, you should do that." 12 Q. Now, did you and your coworkers 13 ever talk about how it felt to be treated by 14 Mr. Gordy McGuire? 15 A. I mean -- 16 MR. MARTIN: Objection. 17 JUDGE GOLLIN: Why do I need this? 18 I really don't. I want to know 19 what was said and what was communicated. I'm 20 going to sustain the objection. 21 Q. Now, earlier you had also talked 22 about concerns you had. Mr. Ackerson said that 23 was none of your damn business. 24 Do you recall making that 25 statement?</p>	<p>1 THE WITNESS: I didn't convey to 2 him on that day or after that day because I 3 haven't spoken to him since. 4 JUDGE GOLLIN: I'm going to sustain 5 the objection. This Witness has testified 6 about the concerns he's had and what led to him 7 wanting to go make a complaint, which I think 8 is all part of that. But getting into anything 9 beyond that isn't going to be relevant for what 10 I think I need. 11 Q. During the meeting on the 26th, did 12 Deanna ever use the word "whatever"? 13 A. Yes. She said, "Whatever," and 14 waved her hand, "Whatever, whatever." 15 (Indicating) 16 Q. To Mr. Cannon-El? 17 A. Yes, ma'am. 18 Q. As far as Mr. Rick Ackerson's 19 comments that Cannon-El probably is not going 20 to be back, when, again, were those made? 21 A. The comment that Cannon-El probably 22 won't be back is when Rick Ackerson came over 23 and told us that -- the same day that he 24 informed us -- the day that he informed us he 25 won't be coming back, that he had his badge and</p>

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1 he probably won't be returning to work.
 2 There's hearsay since from other employees, but
 3 I can't --
 4 Q. Was that before or after the
 5 committee meeting?
 6 A. Technically it was before the
 7 committee meeting.
 8 Q. So let me understand this: You
 9 were told he probably couldn't come back by
 10 Mr. Ackerson, and that was before all the
 11 Investigative Committee?
 12 A. Yes. That was that Friday, the
 13 same day that Will tried to get his paycheck.
 14 It was the same day.
 15 Q. Did you ask him how he knew that?
 16 A. No. I just walked away at that
 17 point.
 18 Q. Now, you mentioned to the committee
 19 that -- strike that.
 20 Did you mention Mr. Ackerson's
 21 comment to the committee, that Mr. Will
 22 Cannon-El would not be coming back?
 23 A. I wasn't willing to provide
 24 information to the committee at that point
 25 after realizing that Mr. Paul Rowland seemed to

1 a way. I never actually said that to them.
 2 Q. So that was your perception at that
 3 point?
 4 A. Uh-huh.
 5 Q. Okay.
 6 JUDGE GOLLIN: Yes?
 7 A. Yes, ma'am. Sorry.
 8 Q. And did the committee ever seem to
 9 ask you questions regarding specifically what
 10 your opinion was about the events?
 11 A. No. The closest thing to that that
 12 was asked was what I thought -- what I thought
 13 the action should be to correct the situation.
 14 Q. And that is the only time they
 15 asked you to render an opinion?
 16 A. Yes.
 17 Q. Did they ever give you an
 18 opportunity to review their notes or their
 19 versions of the --
 20 JUDGE GOLLIN: Why do I need this?
 21 Why do I need this?
 22 Even if they did, what is his
 23 knowledge of reviewing the notes going to help
 24 me with?
 25 MS. GRUBB: I was going to ask if

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1 be the head of --
 2 JUDGE GOLLIN: So the answer is no?
 3 THE WITNESS: No.
 4 Q. Mr. Paul Rowland, after you told
 5 him about the air quality, the air condition in
 6 the plant in your area, and he said they were
 7 very expensive, did either Becky Schwartz or
 8 Nikki Fugate comment on the air condition
 9 quality in the building?
 10 A. Nikki Fugate said that if there's
 11 an issue with it, that we should be looking
 12 into it.
 13 Q. What did Mr. Rowland say after
 14 that?
 15 A. Nothing on that after that.
 16 Q. What did they say when you told
 17 them that you were creating -- that they were
 18 creating an issue to get rid of him, meaning
 19 Mr. Cannon-El?
 20 A. What are you asking?
 21 Q. In other words, you told them,
 22 "Hey, this issue was created to get rid of
 23 Mr. Cannon-El," right?
 24 A. I never told them that. That was
 25 my concern, that things were perceived in such

1 he had an opportunity to correct them.
 2 JUDGE GOLLIN: You're talking about
 3 his notes?
 4 MS. GRUBB: In other words, the
 5 committee made an amalgamation of everyone's
 6 notes, put their opinions in. Was he given an
 7 opportunity to review and changes his
 8 statements or notes.
 9 THE WITNESS: No. I had no
 10 interaction with them after that.
 11 MR. MARTIN: I'm going to put an
 12 objection on the record that the facts
 13 contained in the question are not evidence.
 14 JUDGE GOLLIN: Regarding an
 15 amalgamation of people's notes?
 16 MR. MARTIN: And their opinions, I
 17 think she said.
 18 JUDGE GOLLIN: Well, I don't think
 19 the line of questioning is relevant, so
 20 regardless of whether or not it assumes facts
 21 not in evidence, I'm going to sustain the
 22 objection.
 23 JUDGE GOLLIN: Cross?
 24 MR. MARTIN: The Affidavits, can I
 25 have them?

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<p>1 MS. MURAROVA: Yes. There are two. 2 The first is five pages. And the second is two 3 pages, with the attached diagram. 4 JUDGE GOLLIN: Okay. How long do 5 you think you're going to need to read this? 6 MR. MARTIN: Five minutes. 7 JUDGE GOLLIN: That's five. 8 MS. MURAROVA: May I have 9 Mr. Bauer's statements back? 10 I don't think I have that. 11 JUDGE GOLLIN: We can go off the 12 record. You have five minutes to review. And 13 he can return the Affidavit. 14 ----- 15 (Recess taken.) 16 ----- 17 JUDGE GOLLIN: On the record. 18 Before cross-examination, General 19 Counsel has provided everyone with copies of a 20 revised version of GC Exhibit 2. 21 Does everyone have a copy of it? 22 MR. MARTIN: Yes, your Honor. 23 JUDGE GOLLIN: Do you want to move 24 for the withdrawal of the prior version, which 25 had some words omitted, and replace it with GC</p>	<p>1 time? 2 A. I left after the comment was made 3 that, "If you would like to leave, there's the 4 door." 5 Q. Okay. 6 A. Actually, the exact phrase was, "If 7 you have a problem with it, there's the door," 8 so I left to report that to HR. 9 Q. And then you came back? 10 A. Yes. When I came back, some of the 11 members in the meeting had already disbanded 12 from that meeting. 13 Q. Mr. Bauer had? 14 A. Yes. 15 Q. Anyone else that you recall left? 16 A. I don't recall where Steve Korb or 17 Glenn Young, Junior, were. 18 Q. Did you hear Mr. Bauer ask if he 19 could leave and anybody said no? 20 A. I wasn't there when he left. 21 Q. Mr. Bauer is the only one that you 22 can recall that was gone? 23 A. Him -- I don't know where Burt 24 Combs was, because I don't know if Burt Combs 25 was involved with the meeting at all.</p>
Page 350	Page 352
<p>1 Exhibit 2, which you've now provided, which 2 Mr. Cannon-El went through and completed the 3 lettering so that it's all legible? 4 Any objection to the document? 5 MR. MARTIN: No objection. 6 JUDGE GOLLIN: So GC Exhibit 2 is 7 received with no objection, the revised 8 version. And that should be the only copy. 9 Make sure the Court Reporter and everyone has a 10 copy that's legible. 11 ----- 12 (Thereupon, General Counsel 13 Exhibit 2 was received into 14 evidence.) 15 ----- 16 JUDGE GOLLIN: Cross-examination? 17 ----- 18 CROSS-EXAMINATION 19 BY MR. MARTIN: 20 Q. Good afternoon, Mr. Poff. 21 Turning your attention to May 25 22 and that meeting, just so I'm clear, you walked 23 out of that meeting twice, correct? 24 A. Yes. 25 Q. And you did not ask to leave either</p>	<p>1 Q. After you came back, you left 2 again? 3 A. After the -- after I came back in, 4 the questions and answered and stuff like that, 5 then, yes, I walked out again. 6 Q. You didn't ask to leave that time? 7 A. The meeting was over pretty much at 8 that point. 9 Q. In your perception it was over? 10 A. Steve Korb and Glenn Young, Junior, 11 had walked out at that same exact time, so -- 12 Q. So they walked out of the door with 13 you? 14 A. We all -- like they walked out at 15 the same time. Cannon and Gordy McGuire and 16 Rick continued to converse in there. 17 Q. And after you left the first time, 18 you went to Human Resources? 19 A. Yes. 20 Q. You talked to Ms. Adams? 21 A. Uh-huh. 22 Q. She listened to you? 23 A. She informed me that he -- she 24 said, "Let's call Gordy and see what's going 25 on." She said, "Gordy is heading back over</p>

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1 there," so go ahead and address my issues to
2 him.
3 Q. My question is, she listened to
4 you?
5 A. Yes.
6 Q. She answered your question?
7 A. Yes.
8 Q. She called Gordy to help explain?
9 A. I mean, she wouldn't answer my
10 questions. She sent me to somebody to answer
11 my questions.
12 Q. She never yelled at you?
13 A. No.
14 Q. She never got angry at you?
15 A. No.
16 Q. So you went back to the interaction
17 between Mr. Cannon-El and Mr. McGuire that was
18 already going on?
19 A. Uh-huh.
20 Q. But you did not see the beginning
21 of that interaction, correct?
22 A. No. I didn't see what started the
23 interaction, no.
24 Q. And I remembered your testimony
25 about going -- being able to go outside.

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1 Do you recall that testimony?
2 A. Uh-huh.
3 Q. Okay. Do you recall Mr. McGuire
4 saying that Mr. Cannon-El did not get special
5 treatment because he was just like everybody
6 else?
7 A. Yes.
8 Q. And then Mr. Cannon-El and
9 Mr. McGuire then bickered back and forth,
10 correct?
11 A. No.
12 Q. Okay.
13 A. I mean, you'd have to define
14 bickering, because bickering is something that
15 takes place between two married couples.
16 JUDGE GOLLIN: You said no. He's
17 got another question for you.
18 THE WITNESS: All right.
19 MR. MARTIN: My apologies, your
20 Honor. Just one second.
21 Q. If you can look at GC Exhibit 8
22 that is in front of you, this is your statement
23 that had "5-25-16." If you can, turn to the
24 second page of that Exhibit.
25 A. (Witness complies with request.)

1 Q. I'm going to go -- I think it's
2 just easier to count from the bottom, the
3 lines.
4 MS. MURAROVA: Give me just a
5 moment to find that.
6 MR. MARTIN: You're having the same
7 problem that I have.
8 Q. I'm going to ask you to go ten
9 lines from the bottom. If you can, go ahead
10 and count.
11 JUDGE GOLLIN: Why don't you point
12 him to some words so he knows exactly --
13 THE WITNESS: I know exactly where
14 he is. "Continued to bicker back and forth."
15 Q. So at least you told the committee
16 that Mr. Cannon-El and Mr. McGuire bickered
17 back and forth?
18 A. Yeah.
19 Q. Okay. And I believe you said that
20 this interaction, just like about everybody
21 else, was in relation to taking breaks and
22 going outside?
23 A. Uh-huh.
24 Q. Just for clarification, you're
25 allowed to take breaks, correct?

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1 A. You are given two standard breaks,
2 yes.
3 Q. So this related to unscheduled
4 break, this conversation?
5 A. Yes. But if you also want to add
6 in, there was other information, as well,
7 because they were talking about Mr. Cannon's
8 clock times.
9 Q. Have you seen Mr. Cannon's clock
10 times?
11 A. No, but I've seen the paperwork
12 that Gordy was talking about that day.
13 Q. And then you interrupted that and
14 asked who you reported to, you wanted to know
15 who you reported to?
16 A. Uh-huh.
17 Q. Mr. McGuire said Huck Finn?
18 A. Yeah.
19 Q. You said, "Tell Rick that,"
20 correct?
21 A. Uh-huh.
22 JUDGE GOLLIN: You need to say yes
23 or no.
24 THE WITNESS: Yes.
25 Q. And then Mr. McGuire proceeded to

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JA112

<p style="text-align: right;">Page 357</p> <p>1 chew into Rick Ackerson, correct?</p> <p>2 A. Yes.</p> <p>3 Q. What do you mean by "chew into"?</p> <p>4 A. Show Rick Ackerson that Huck Finn</p> <p>5 is the next supervisor, and his role there is</p> <p>6 to convey that information from the nightshift</p> <p>7 to the day shift.</p> <p>8 Q. And he was speaking in a raised</p> <p>9 voice to Mr. Ackerson?</p> <p>10 A. That's how Gordy speaks to</p> <p>11 everybody, that's the point, yes.</p> <p>12 Q. And then the next day you went into</p> <p>13 Ms. Adams' office, correct?</p> <p>14 A. Yeah. Well, no, we went to HR. We</p> <p>15 didn't go to Ms. Adams' office.</p> <p>16 Q. At some point that day you went</p> <p>17 into Ms. Adams' office?</p> <p>18 A. Yes.</p> <p>19 Q. She told you to come in?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And you entered the room</p> <p>22 five or ten minutes after Chris Bauer entered</p> <p>23 her room, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And then you had your discussion</p>	<p style="text-align: right;">Page 359</p> <p>1 Q. Okay. And then you say Ms. Adams</p> <p>2 became upset after Mr. Cannon called her</p> <p>3 biased, correct?</p> <p>4 A. Yes. Actually, he didn't call her</p> <p>5 biased. The term "biased" came around.</p> <p>6 Q. Did Mr. Cannon say "racist"?</p> <p>7 A. No.</p> <p>8 Q. You're sure?</p> <p>9 A. I would swear on all that is holy</p> <p>10 that that word never came out of that man's</p> <p>11 mouth.</p> <p>12 Q. But you do remember Ms. Adams</p> <p>13 saying, "It's not about race," correct?</p> <p>14 A. Yes.</p> <p>15 Q. And both Mr. Cannon and Ms. Adams</p> <p>16 had raised voices?</p> <p>17 A. At that point, yes.</p> <p>18 Q. And at some point Ms. Adams asked</p> <p>19 Mr. Cannon to leave her office, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And she told him he was being</p> <p>22 hostile, and that's the reason she gave for</p> <p>23 asking him to leave the office, correct?</p> <p>24 A. I don't remember if she said</p> <p>25 "hostile." I'm pretty sure it was something</p>
<p style="text-align: right;">Page 358</p> <p>1 with just you and Mr. Bauer in the room,</p> <p>2 correct, with Ms. Adams?</p> <p>3 A. Define "discussion," because the</p> <p>4 entire thing -- the discussion continued after</p> <p>5 I entered the room.</p> <p>6 Q. But you had a discussion with you</p> <p>7 and Chris Bauer and Deanna Adams before</p> <p>8 Mr. Cannon entered the room, correct?</p> <p>9 A. Yes, but that conversation was</p> <p>10 going on before I entered the room, as well.</p> <p>11 Q. And then Mr. Cannon entered the</p> <p>12 room five or ten minutes after you did,</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And just looking at the time when</p> <p>16 you and Chris Bauer were in Ms. Adams' office,</p> <p>17 she didn't raise her voice at you, correct?</p> <p>18 A. No.</p> <p>19 Q. She didn't get angry at you?</p> <p>20 A. No.</p> <p>21 Q. And then you say that after</p> <p>22 Mr. Cannon entered the room, the conversation</p> <p>23 switched to legal issues?</p> <p>24 A. The legal issue came up, yes. That</p> <p>25 was the -- yes.</p>	<p style="text-align: right;">Page 360</p> <p>1 along the lines of, "Because I asked you to,"</p> <p>2 or something like that.</p> <p>3 Q. Okay. If you can look at General</p> <p>4 Counsel's Exhibit 11, this was your statement</p> <p>5 that I believe you testified you wrote and</p> <p>6 submitted to the Investigation Committee.</p> <p>7 A. What am I looking for?</p> <p>8 Q. Do you have it in front of you?</p> <p>9 A. Yes.</p> <p>10 Q. If you can turn to -- let's see.</p> <p>11 I'm trying to see where the paragraph starts.</p> <p>12 It's the last sentence that's at</p> <p>13 the bottom of Page 1 that starts with "At," "At</p> <p>14 which time."</p> <p>15 A. "At which time she said no and</p> <p>16 informed him that he had to clock out and leave</p> <p>17 the property, stating that he was hostile."</p> <p>18 That was after she stepped into the hallway.</p> <p>19 You're chronologically disordering things.</p> <p>20 Q. She told him at some point, "Leave</p> <p>21 because you're being hostile"?</p> <p>22 A. Yes. Once they were in the</p> <p>23 hallway. But to say that, I mean, she's the</p> <p>24 one that left the office in an attempt to go to</p> <p>25 him.</p>

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JA113

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<p>1 Q. And Mr. Cannon, after she asked him 2 to leave her office, went to the doorway, 3 correct? 4 A. Yes. 5 Q. He did not leave the area, correct? 6 A. He left out of her office and 7 turned around and asked if he could still leave 8 his statement. 9 Q. But he did not leave the area? 10 A. No. 11 Q. In fact, you never saw him leave 12 the area, correct? 13 A. Not until I went across the street 14 and came back out and he was outside the door. 15 Q. At some point Ms. Adams asked him 16 to clock out and leave the premises, correct? 17 A. Yes. 18 Q. This was after she asked him to 19 leave her office? 20 A. Yes. 21 Q. And he did not do that, correct? 22 A. No. 23 Q. And then she said she was going to 24 give him to the count of three to leave or she 25 would call the Police, correct?</p>	<p>1 Q. Mr. Cannon was looking right at her 2 when she said it? 3 A. She was in Mr. Cannon's space when 4 she started that conversation. She exited her 5 office and went into his space, so yes. 6 Q. He was looking at her when he said 7 it? 8 A. Yes. 9 Q. And he still didn't move where he 10 was, correct? 11 A. No. 12 Q. And ultimately Ms. Adams picked up 13 her phone and called somebody? 14 A. She walked past me and Chris Bauer 15 and walked into her office to call somebody. 16 Q. You would estimate it was 15 17 minutes between the time voices became raised 18 and the time that Ms. Adams picked up the phone 19 to call, correct? 20 A. I would say it was like 15 minutes 21 for the whole interaction. But yeah, yes. 22 Q. And you left right after Ms. Adams 23 picked up the phone? 24 A. I left right after she hung up the 25 phone.</p>
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<p>1 A. Yes. 2 Q. And Cannon said, "Go ahead and call 3 the Cops, I didn't do anything wrong," correct? 4 A. Actually, it was, she said, "One," 5 he said, "Two, three," and she said, "Okay, I'm 6 calling the Cops," and he said, "I did nothing 7 wrong." 8 Q. So at some point you heard 9 Mr. Cannon say that he wasn't leaving until the 10 Cops got there because he did nothing wrong and 11 was just trying to file a complaint? 12 A. Yes. 13 Q. Okay. And he was still in the HR 14 area when he said that? 15 A. The hallway, yes. 16 Q. And that was after Ms. Adams said 17 she was going to call the Police if he didn't 18 leave the area? 19 A. Yes. 20 Q. And just to make sure I'm clear, 21 also at some point during that meeting she 22 said, "I'll give you to the count of three," 23 she said, "One," and Mr. Cannon-El said, "Two, 24 three"? 25 A. Yes.</p>	<p>1 Q. And your testimony is that Chris 2 Bauer left before you? 3 A. Yes. He walked out first and I 4 followed behind him. I stopped at the 5 cappuccino machine. 6 Q. Right. After you left, you and 7 Mr. Cannon hung out by the cappuccino machine 8 for about up to five minutes? 9 A. Yeah, they told me to put a time 10 frame on it, and I said it was five minutes 11 max, if that. 12 Q. Okay. But this was after he was 13 asked to leave? 14 A. Yes. 15 Q. And then Mr. Cannon was with you in 16 the HR hallway as you were leaving, correct? 17 A. Yes. 18 Q. But when you went to the lobby and 19 outside, you realized he was no longer there? 20 A. Right, he was no longer behind me. 21 Q. And you don't know where he went? 22 A. No. 23 Q. And you also said that you were 24 called in front of the Investigation Committee, 25 correct?</p>

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JA114

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<p>1 A. Yes.</p> <p>2 Q. You discussed the events of both</p> <p>3 May 25 and May 26, correct?</p> <p>4 A. Yes.</p> <p>5 Q. You believe Nikki Fugate to be an</p> <p>6 unbiased person, correct?</p> <p>7 A. I do believe Nikki Fugate is</p> <p>8 probably the most unbiased person I know</p> <p>9 there, yes.</p> <p>10 Q. Do you consider Mr. Cannon to be a</p> <p>11 friend?</p> <p>12 A. I mean, describe -- define</p> <p>13 "friend."</p> <p>14 Q. Do you consider him to be among</p> <p>15 your friends?</p> <p>16 A. We don't associate outside of work,</p> <p>17 if that's what you're asking. But at work,</p> <p>18 yes, I mean I consider him a good person.</p> <p>19 Q. Do you ever talk to him outside of</p> <p>20 work?</p> <p>21 A. Maybe periodically every once in a</p> <p>22 blue moon.</p> <p>23 Q. Do you ever speak to Ms. Adams</p> <p>24 outside of work?</p> <p>25 A. No.</p>	<p>1 the beholder at that point.</p> <p>2 Q. Ms. Steele told you that you were</p> <p>3 disciplined for leaving the meeting, correct?</p> <p>4 A. Huh-uh. Actually, Ms. Steele made</p> <p>5 comments where, "I'm not entirely sure what's</p> <p>6 going on, I was just told to write you up."</p> <p>7 Q. Ms. Steele wasn't there on that</p> <p>8 day?</p> <p>9 A. Yes. She got her direct okay from</p> <p>10 somebody.</p> <p>11 Q. You talked about incidents with day</p> <p>12 shift employees and nightshift employees</p> <p>13 bringing up concerns, that the day shift folks</p> <p>14 would say something about the nightshift folks</p> <p>15 and you would prove it was wrong. And I think</p> <p>16 your testimony was that nothing was done about</p> <p>17 that.</p> <p>18 As of the time of May 25 or 26, you</p> <p>19 don't know whether anybody talked to the day</p> <p>20 shift employees about this issue, correct?</p> <p>21 A. The day shift employee in question</p> <p>22 quit.</p> <p>23 Q. Okay. You don't know why he quit?</p> <p>24 A. No, I know entirely why he quit,</p> <p>25 but that's beside the point here.</p>
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<p>1 Q. And, in fact, you don't trust Human</p> <p>2 Resources people, correct?</p> <p>3 A. I don't trust Human Resources at</p> <p>4 that company at all.</p> <p>5 Q. Right. And that's because --</p> <p>6 A. Prior instances, not just this.</p> <p>7 Q. Prior instances where you claim</p> <p>8 your personal information was leaked?</p> <p>9 A. My personal information was</p> <p>10 directly given to my supervisor at that time by</p> <p>11 the HR person, which was not Ms. Adams.</p> <p>12 Q. But that happened before the May</p> <p>13 incident, and you didn't trust HR going into</p> <p>14 the room with Ms. Adams, correct?</p> <p>15 A. No.</p> <p>16 Q. Regarding your discipline, if you</p> <p>17 look at General Counsel 10, I'll direct your</p> <p>18 attention to Employee's Comments where you've</p> <p>19 already testified that's your handwriting,</p> <p>20 correct?</p> <p>21 A. Uh-huh.</p> <p>22 Q. The first thing you say is, "I'm</p> <p>23 fine insubordination."</p> <p>24 Why were you fine with it?</p> <p>25 A. Insubordination is in the eyes of</p>	<p>1 Q. So the employee that you had a</p> <p>2 problem with is no longer there?</p> <p>3 A. Yes. And it wouldn't be a problem</p> <p>4 with me.</p> <p>5 Q. That Mr. Cannon had.</p> <p>6 When did he leave?</p> <p>7 A. I mean, I don't know the exact day</p> <p>8 he quit.</p> <p>9 Q. Can you give a guess about how long</p> <p>10 before the incident on May 25?</p> <p>11 A. I mean, as far as I know, he was</p> <p>12 still there on the 25th, but I don't remember</p> <p>13 the exact day he quit. He works at Mitsubishi.</p> <p>14 You can call him if you want.</p> <p>15 Q. He's no longer there?</p> <p>16 A. No.</p> <p>17 Q. You don't know whether the company</p> <p>18 ever spoke to that employee about this issue?</p> <p>19 A. My issue was that they showed no</p> <p>20 public correction. My issue was the company --</p> <p>21 if you berate one publicly, you have to berate</p> <p>22 the other, because the rules apply to</p> <p>23 everybody.</p> <p>24 Q. Is it possible that there could</p> <p>25 have been a public statement made and you just</p>

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JA115

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<p>1 weren't there?</p> <p>2 Correct?</p> <p>3 A. No. I know for a fact that that</p> <p>4 wasn't the case.</p> <p>5 JUDGE GOLLIN: Why is this</p> <p>6 relevant?</p> <p>7 MR. MARTIN: Sure. Sorry, your</p> <p>8 Honor.</p> <p>9 Q. Did you know how Paul Rowland and</p> <p>10 Rick Ackerson got along?</p> <p>11 A. Yeah.</p> <p>12 Q. You do?</p> <p>13 A. Yeah.</p> <p>14 Q. Your transfer that you talked</p> <p>15 about, I want to be clear, this was two times</p> <p>16 for two weeks apiece, correct?</p> <p>17 A. Uh-huh.</p> <p>18 JUDGE GOLLIN: Is that a yes?</p> <p>19 THE WITNESS: Yes. Sorry.</p> <p>20 Q. This was not at the same time --</p> <p>21 are you aware of whether or not Chris Bauer was</p> <p>22 moved?</p> <p>23 A. Yes. We were both moved at the</p> <p>24 same, exact times.</p> <p>25 Q. And your testimony was it was two</p>	<p>1 this is I think General Counsel 11 --</p> <p>2 JUDGE GOLLIN: I don't believe his</p> <p>3 testimony was that he drafted it for the</p> <p>4 committee. He said he drafted a statement</p> <p>5 which he gave to the committee.</p> <p>6 MR. MARTIN: Yes.</p> <p>7 Q. You drafted a statement which you</p> <p>8 gave to the committee, correct?</p> <p>9 A. Yes.</p> <p>10 Q. I'll strike that question.</p> <p>11 You testified that you gave</p> <p>12 Ms. Adams your statement that you wrote on</p> <p>13 May 26 before you went to her office, correct?</p> <p>14 A. No. I gave it to her when I went</p> <p>15 into the office. That was the point of going</p> <p>16 to her office, to give her my statement that</p> <p>17 day.</p> <p>18 Q. Correct. Do you know whether or</p> <p>19 not she read it?</p> <p>20 A. I have no clue if she read it or</p> <p>21 not.</p> <p>22 MR. MARTIN: No other questions.</p> <p>23 JUDGE GOLLIN: Redirect based on</p> <p>24 cross?</p> <p>25 MS. MURAROVA: Yes, a few</p>
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<p>1 days after the complaint?</p> <p>2 A. I said that's what my first was. I</p> <p>3 don't know when his was. He was on the</p> <p>4 separate side of the building than I.</p> <p>5 Q. You guys were moved to two</p> <p>6 different locations?</p> <p>7 A. Yes.</p> <p>8 Q. And do you know whether there was,</p> <p>9 in fact, extra work that needed to be done in</p> <p>10 the place you were transferred to?</p> <p>11 A. What do you mean by "extra work"?</p> <p>12 Q. That was the reason you were given,</p> <p>13 correct, there was work to be done in that</p> <p>14 area?</p> <p>15 A. What I was told is that there was</p> <p>16 no work in our area to do. But when I came</p> <p>17 back to our area, the same work that was</p> <p>18 waiting for me to do that day was still there</p> <p>19 waiting for me when I came back.</p> <p>20 Q. You don't know when the timelines</p> <p>21 were on those projects, correct?</p> <p>22 A. Not offhand, no.</p> <p>23 MR. MARTIN: Just one second.</p> <p>24 Q. Turning your attention briefly to</p> <p>25 the statement you drafted for the committee, so</p>	<p>1 questions.</p> <p>2 -----</p> <p>3 REDIRECT EXAMINATION</p> <p>4 BY MS. MURAROVA:</p> <p>5 Q. While you were -- on May 26, while</p> <p>6 you were in Deanna's office with Mr. Cannon-El</p> <p>7 and Mr. Bauer, did you feel threatened during</p> <p>8 your time there?</p> <p>9 MR. MARTIN: Objection.</p> <p>10 JUDGE GOLLIN: To what?</p> <p>11 MR. MARTIN: Subjective belief.</p> <p>12 JUDGE GOLLIN: I'll sustain the</p> <p>13 objection.</p> <p>14 Q. At any time during that interaction</p> <p>15 did you move away from Mr. Cannon-El?</p> <p>16 A. No.</p> <p>17 Q. At any time did you tell him to</p> <p>18 quiet down?</p> <p>19 A. No.</p> <p>20 Q. Did you tell him to settle down?</p> <p>21 A. No.</p> <p>22 Q. Did you ever tell him like, "Hey,</p> <p>23 let's go," "Come with me," anything like that?</p> <p>24 A. No.</p> <p>25 Q. As you were walking out of the HR</p>

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JA116

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<p>1 area, where was Mr. Cannon-El?</p> <p>2 A. As I was walking out of -- out of</p> <p>3 the lobby or out of the office?</p> <p>4 Q. Well, first of all, out of the</p> <p>5 lobby.</p> <p>6 A. When I was walking out of the</p> <p>7 lobby, by the coffee machine.</p> <p>8 Q. When you were walking out of</p> <p>9 Deanna's office, where was Mr. Cannon-El?</p> <p>10 A. By the coffee machine.</p> <p>11 Q. As you were walking out of Deanna's</p> <p>12 office, where was Mr. Bauer?</p> <p>13 A. He walked out ahead of me.</p> <p>14 Q. So Mr. Bauer was already out of the</p> <p>15 office when you and Mr. Cannon-El exited?</p> <p>16 A. Yes.</p> <p>17 Q. While you were in Ms. Adams'</p> <p>18 office, did she ever ask you for help?</p> <p>19 A. No.</p> <p>20 Q. Did she tell you, "I'm scared" or</p> <p>21 anything like that?</p> <p>22 A. No.</p> <p>23 Q. Okay. You were asked a question</p> <p>24 about how long -- how much time you thought</p> <p>25 passed between the time Mr. Cannon-El was asked</p>	<p>1 A. Yes.</p> <p>2 Q. Who are you related to?</p> <p>3 A. Joanne Poff.</p> <p>4 Q. What's your relation to her?</p> <p>5 A. She's my sister.</p> <p>6 Q. Do you know what she does for HR?</p> <p>7 A. I don't know exactly. I know she</p> <p>8 like is listed as HR generalist or something</p> <p>9 like that. I know she helps people -- she</p> <p>10 keeps track of attendance and helps people who</p> <p>11 have issues.</p> <p>12 Q. You mentioned that when you were</p> <p>13 given your write-up, you were told it claim</p> <p>14 from Glenn.</p> <p>15 Is that not correct?</p> <p>16 A. No. It was -- Christine Steele</p> <p>17 said that Doug said that she had to write me</p> <p>18 up.</p> <p>19 Q. Who is Doug?</p> <p>20 A. Doug Lang.</p> <p>21 MS. MURAROVA: I have no further</p> <p>22 questions.</p> <p>23 MS. GRUBB: One.</p> <p>24 JUDGE GOLLIN: Okay.</p> <p>25 - - - - -</p>
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<p>1 to leave and when he actually left.</p> <p>2 How much time --</p> <p>3 A. I actually left --</p> <p>4 Q. I actually think you answered a</p> <p>5 different question.</p> <p>6 A. By actually leave, you mean outside</p> <p>7 of the building?</p> <p>8 Q. No, I mean when he left Deanna's</p> <p>9 area, when he left her office or immediately</p> <p>10 outside her office.</p> <p>11 A. The moment he was asked to step out</p> <p>12 of her office, he stepped out of her office.</p> <p>13 The moment she asked him to leave the premise,</p> <p>14 he did not leave the premise. He stayed there</p> <p>15 and questioned why he needed to leave the</p> <p>16 premises.</p> <p>17 Q. How long do you think it took from</p> <p>18 the time you first walked into Ms. Adams'</p> <p>19 office and when you left Ms. Adams' office?</p> <p>20 A. That's what I'm saying, the whole</p> <p>21 event took maybe 15 minutes.</p> <p>22 Q. Okay. Including you voicing your</p> <p>23 complaints?</p> <p>24 A. Right. Yes.</p> <p>25 Q. Are you related to anyone in HR?</p>	<p>1 BY MS. GRUBB:</p> <p>2 Q. What was said between Deanna asking</p> <p>3 Mr. Cannon-El to leave the office and asking</p> <p>4 him to leave the premises, two different areas,</p> <p>5 office, premises?</p> <p>6 A. She asked him to leave the office.</p> <p>7 He turned and asked if he could at least drop</p> <p>8 his statement off. She said, "No. You need to</p> <p>9 leave the premises."</p> <p>10 MR. MARTIN: Nothing.</p> <p>11 JUDGE GOLLIN: Thank you. I</p> <p>12 appreciate your time.</p> <p>13 MS. MURAROVA: Your Honor, I'd like</p> <p>14 to briefly recall Mr. Cannon-El, if you don't</p> <p>15 mind, to discuss the map issue.</p> <p>16 JUDGE GOLLIN: All right. Any</p> <p>17 issues related to recalling him for purposes of</p> <p>18 the map?</p> <p>19 MR. ROSENTHAL: No.</p> <p>20 JUDGE GOLLIN: All right.</p> <p>21 - - - - -</p> <p>22 (Recess taken.)</p> <p>23 - - - - -</p> <p>24 JUDGE GOLLIN: Mr. Cannon-El has</p> <p>25 been recalled.</p>

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<p style="text-align: right;">Page 377</p> <p>1 Mr. Cannon-El, you remain under 2 oath from earlier today. 3 There is a limited amount of 4 inquiry that General Counsel would like to 5 make, and there's been no objection by 6 Respondent's Counsel, as relates to the layout 7 of the facility. 8 So go ahead. 9 ----- 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 379</p> <p>1 marked for purposes of 2 identification.) 3 Q. When we spoke about General 4 Counsel's Exhibit 3, you mentioned that you had 5 thought that you had marked where you sat in 6 the lobby on this Exhibit. 7 A. Yes. 8 Q. And you were surprised that it 9 wasn't there? 10 A. Yes. 11 Q. Now you're looking at a map that 12 has a handwritten mark. 13 It's the same map as before, but 14 there's different handwritten notes on it, 15 right? 16 A. Correct. 17 Q. And one of them is in the lobby? 18 A. Yes. 19 Q. And now that you've looked at this 20 again, is General Counsel's Exhibit 3 that's in 21 front of you -- is that your handwriting on 22 this map? 23 A. Yes. 24 Q. Okay. Can you just briefly explain 25 what the handwritten sections on there are --</p>
<p style="text-align: right;">Page 378</p> <p>1 (Whereupon, WILLIAM CANNON-EL was called 2 as a Witness by and on behalf of the General 3 Counsel and, having been previously sworn, was 4 examined and testified further as follows:) 5 FURTHER REDIRECT EXAMINATION 6 BY MS. MURAROVA: 7 Q. Based on what you were shown 8 earlier as General Counsel's Exhibit 3 -- and 9 I'll show you what you've been shown -- 10 A. It's still here. 11 Q. Now that you've considered it, are 12 the circles and handwriting your handwriting? 13 A. No. 14 Q. So I'm going to show you what 15 I've -- I'm going to mark it as -- I'm just 16 going to mark it as General Counsel's 17 Exhibit 3, the correct version. 18 JUDGE GOLLIN: So this is intended 19 to replace the prior GC Exhibit 3? 20 MS. MURAROVA: Yes. 21 JUDGE GOLLIN: Will you then please 22 remove the incorrect GC 3 so we have a pile of 23 correct documents? 24 (Thereupon, the corrected version 25 of General Counsel Exhibit 3 was</p>	<p style="text-align: right;">Page 380</p> <p>1 A. Yes. 2 Q. -- or what they signify? 3 A. Well, it signifies events or places 4 where each individual was standing on May 26 in 5 Ms. Adams' office. 6 Q. So A1, what does that significant? 7 A. That's Ms. Adams' first position. 8 Q. P1, what does that signify? 9 A. That's John Poff's first position. 10 Q. What does B1 signify? 11 A. Chris Bauer's position. 12 Q. What about C1? 13 A. My position. 14 Q. It looks like right outside her 15 office is C2. 16 What is that? 17 A. That's my second position upon her 18 requesting that I leave her office. 19 Q. Okay. And what is A2? 20 A. A2 is her second position upon 21 leaving her office. 22 Q. When you're saying, "her," who are 23 you referring to? 24 A. Ms. Adams. 25 Q. C3, what is that?</p>

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<p>1 A. I actually took some steps back 2 because she came forward, so I didn't want to 3 seem as if I was impeding her travel or 4 anything, so I backed up to give her room. 5 Like I said, it's a narrow hallway, so I backed 6 up. 7 And C3 is my third position, when 8 Ms. Adams came in. 9 Q. Now, there's handwriting here that 10 says R1. 11 What is that? 12 A. That's Mr. Ackerson's position when 13 I finally observed him, that he was in the 14 hallway. 15 Q. And there's a C4. 16 What is that? 17 A. That's my final position before -- 18 once I left HR, I would have had, because I 19 would have shown where Ms. Adams was outside 20 while I sat in the lobby instead of going 21 outside, so I just sat in the lobby until I 22 seen my sibling arrive. 23 MS. MURAROVA: Your Honor, at this 24 time I'd like to have this General Counsel 25 Exhibit replace the one that was previously</p>	<p>1 Witness. I apologize for making them wait all 2 day, but I won't imagine you're going to be 3 done in a half hour, so I'm not going to start 4 a new Witness and then break for the day. 5 We had arranged to start at 6 tomorrow. You have five Witnesses and possibly 7 a rebuttal Witness. 8 I want to make sure we're going to 9 be getting done tomorrow, so is there -- if 10 there's a concern, that if we need to start 11 earlier, we can start -- I don't know how early 12 the office opens, but we can do that to make 13 sure that we get done tomorrow if there's a 14 concern. 15 MR. MARTIN: I have no problem 16 starting early. 17 MS. ADAMS: I have no problems. 18 JUDGE GOLLIN: I'm asking everyone. 19 MS. MURAROVA: I don't have an 20 issue with it. Our office opens at eight a.m. 21 JUDGE GOLLIN: Well, then let's 22 plan on starting and going on the record about 23 8:15 so we can make sure that we're getting 24 done tomorrow. 25 (Discussion had off record.)</p>
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<p>1 admitted. 2 JUDGE GOLLIN: Any objection? 3 MR. MARTIN: No objection. 4 JUDGE GOLLIN: All right. GC 5 Exhibit 3 is received. 6 (Thereupon, General Counsel 7 Exhibit 3 was received into 8 evidence.) 9 JUDGE GOLLIN: Are you done with 10 the Witness? 11 MS. MURAROVA: Yes. 12 JUDGE GOLLIN: I'm assuming you 13 have no cross. 14 MR. MARTIN: No cross. 15 JUDGE GOLLIN: General Counsel, any 16 other Witnesses? 17 MS. MURAROVA: No, your Honor. 18 JUDGE GOLLIN: So you rest? 19 MS. MURAROVA: Yes. Subject to 20 rebuttal. 21 JUDGE GOLLIN: Charging Party, you 22 have no Witnesses, correct? 23 MS. GRUBB: No, your Honor. 24 JUDGE GOLLIN: All right. It is 25 5:26, so we're not going to start a new</p>	<p>1 JUDGE GOLLIN: So we're going to 2 start then at 9:00, if that's the case. 3 Obviously if you can get here sooner, try and 4 get here sooner if you can. 5 All right. 6 Mr. Cannon-El: I can aim towards 7 8:30. 8 JUDGE GOLLIN: I understand that 9 people have commitments outside of this 10 hearing, so I'm not going to create unnecessary 11 issues. 12 I want to make sure everyone has an 13 opportunity to present their case, but I would 14 like to make sure we get done tomorrow. 15 All Exhibits from the GC have been 16 received as they've been modified or corrected. 17 Respondent's Exhibits 1 and 2 have been 18 received. So GC 1 through 11 are received and 19 Respondent's 1 and 2 are received. 20 As I stated at the start of the 21 hearing, this provides us with an opportunity 22 and I urge you to take the opportunity with 23 regards to the prospect of settlement in this 24 case. 25 I've made no determination as</p>

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<p style="text-align: right;">Page 385</p> <p>1 relates to the merits of the case. 2 And you've had an opportunity to 3 hear the General Counsel's case, and you can 4 make an assessment as to whether you believe 5 settlements is worthwhile. 6 And I urge all parties to have some 7 discussion before we start tomorrow about the 8 prospect of settlement. As I've stated, I 9 think settlement is always preferable, but 10 everyone always has their right to have a 11 decision if that's what you think is necessary 12 in this case. 13 So all I'll say is, I'll urge you 14 all to have a conversation, and I'm going to 15 ask at the start of tomorrow the status of 16 those discussions, not the specifics, just 17 whether or not there seems to be a settlement. 18 To the extent that you think I 19 could help or facilitate in those discussions, 20 to the extent that I know a lot of the details 21 as I will be ultimately be deciding the case, 22 I'll do my best to help. 23 But like I said, I urge you all to 24 have some conversations. 25 If there's nothing else, we will</p>	<p style="text-align: right;">Page 387</p> <p>1 CERTIFICATION 2 3 This is to certify that the attached 4 proceedings before the National Labor Relations 5 Board (NLRB), Region 9, in the matter of MEYER 6 TOOL, INC., and WILLIAM CANNON-EL, III, AN 7 INDIVIDUAL, at Cincinnati, Ohio, on April 10, 8 2017, was held according to the record, and 9 that this is the original, complete, and true 10 and accurate transcript that has been given 11 compared to the recording, at the hearing, that 12 the exhibits are complete and no exhibits 13 received in evidence or in the rejected exhibit 14 files are missing. 15 16 17 18 Joyce Lynn Yarnell, Notary 19 Public within and for the 20 State of Ohio 21 22 23 My commission expires on December 21, 2020. 24 25</p>
<p style="text-align: right;">Page 386</p> <p>1 recess for the evening and resume tomorrow at 2 nine, but I'll ask everyone to try to get here 3 by 8:30, to the extent they can, so that if we 4 can start earlier, we can get going earlier. 5 So make sure your Witnesses are all aware. I 6 don't know who your first Witness is going to 7 be. At least make sure your first Witness is 8 here by 8:30. 9 Thank you, everyone. We can go off 10 the record. 11 12 (Proceedings adjourned at 5:34 p.m.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	

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